VERNON'S CIVIL STATUTES
TITLE 1. GENERAL PROVISIONS

Art. 30. REVISED STATUTES CITED. These Revised Civil Statutes shall be known and may be cited as the "Revised Statutes."

Acts 1925, S.B. 84.

TITLE 4. AGRICULTURE AND HORTICULTURE
CHAPTER 11. COTTON

Art. 165-4. COTTON RESEARCH AWARD FUND.

Sec. 1. By this Act it is expressly declared to be a State policy that the encouragement and stimulation of new uses for cotton shall be a matter of State-wide importance and concern and that the various agencies of the State Government, and more particularly the various State agricultural departments, agencies, schools, colleges, etc., are hereby directed to take full and sufficient notice and consideration of the policy herein established and set forth, and the activities of all agencies of the State Government, and more particularly those especially mentioned above are hereby directed to be revamped and reorganized so as to conform with the provisions of this Act.

Sec. 2. The Governor of this State is hereby directed as the Chief Executive and Administrative Officer of this State to use his efforts to carry out the policy set forth above.

Sec. 3. In order to assist in carrying out the policy set forth in this Act, there is hereby created the "Cotton Research Award Fund", and there is hereby appropriated to this fund out of any money in the State Treasury not otherwise appropriated the sum of Ten Thousand ($10,000.00) Dollars. The President of the University of Texas, the President of the A. & M. College, and the President of Texas Technological College are hereby designated as a Board of Trustees of said fund. Said Board of Trustees are hereby appointed and empowered to dispense said fund in keeping with rules and regulations which a majority of said Board may adopt, provided that the same are not in conflict with the provisions of this Act. Said rules and regulations shall be drawn up and published within ninety days from the effective date of this Act, and among other things, they shall provide for:

(a) An award of not less than Five Thousand ($5,000.00) Dollars,

nor more than Ten Thousand ($10,000.00) Dollars to any resident Texas citizen, who, by chemical research or other invention or device, discovers any process or method which hereafter brings about an increase in the consumption of cotton annually in an amount equal to or greater than three hundred thousand (300,000) bales of five hundred (500) pounds net weight;

(b) The persons mentioned above are to be the sole judges as to whether the required increase in consumption of cotton above mentioned has actually taken place, and the Comptroller of Public Accounts is hereby authorized to pay warrants drawn on the "Cotton Research Award Fund" when said warrants are signed by a majority of the three persons above mentioned.

Acts 1939, 46th Leg., p. 1.

TITLE 6. AMUSEMENTS--PUBLIC HOUSES OF

Art. 179e. TEXAS RACING ACT.

ARTICLE 2. TEXAS RACING COMMISSION

Sec. 2.02. MEMBERSHIP. (a) The commission consists of seven members appointed by the governor with the advice and consent of the senate and two ex officio members who shall have the right to vote. The ex officio members are:

(1) the chairman of the Public Safety Commission or a member of the Public Safety Commission designated by the chairman of the Public Safety Commission; and

(2) the commissioner of agriculture or the commissioner's designee.

ARTICLE 6. RACETRACK LICENSES

Sec. 6.094. NATIONAL EVENT INCENTIVES. (a) In this section:

(1) "Breeders' Cup costs" means all costs for capital improvements and extraordinary expenses reasonably incurred for the operation of the Breeders' Cup races, including purses offered on other days in excess of the purses that the host association is required to pay by this Act.

(2) "Breeders' Cup races" means a series of thoroughbred races known as the Breeders' Cup Championship races conducted annually by Breeders' Cup Limited on a day known as Breeders' Cup Championship day.

(3) "Development organization" means an organization whose

primary purpose is the marketing, promotion, or economic development of a city, county, or region of the state, including chambers of commerce, convention and visitors bureaus, and sports commissions.

(4) "Political subdivision" means a city, county, or other political subdivision of the state and includes any entity created by a political subdivision.

(b) An association conducting the Breeders' Cup races may apply to the reimbursement of Breeders' Cup costs amounts that would otherwise be set aside by the association for the state under Sections 6.091(a)(1) and 6.093 of this Act during the year in which the association hosts the Breeders' Cup races, limited to an amount equal to the lesser of the aggregate amount contributed to pay Breeders' Cup costs by political subdivisions and development organizations or $2 million. Beginning on January 1 of the year for which the association has been officially designated to host the Breeders' Cup races, amounts that would otherwise be set aside by the association for the state during that year under Sections 6.091(a)(1) and 6.093 of this Act shall be set aside, in accordance with procedures prescribed by the comptroller, for deposit into the Breeders' Cup Developmental Account. The Breeders' Cup Developmental Account is an account in the general revenue fund. The commission shall administer the account. Money in the account may be appropriated only to the commission and may be used only for the purposes specified in this section. The account is exempt from the application of Section 403.095, Government Code.

(c) The commission shall make disbursements from the Breeders' Cup Developmental Account to reimburse Breeders' Cup costs actually incurred and paid by the association, after the association files a request for reimbursement. Disbursements from the account may not at any time exceed the aggregate amount actually paid for Breeders' Cup costs by political subdivisions and development organizations, as certified by the commission to the comptroller, or $2 million, whichever is less.

(d) Not later than January 31 of the year following the year in which the association hosts the Breeders' Cup races, the association shall submit to the commission a report that shows:

(1) the total amount of Breeders' Cup costs incurred and paid by the association;

(2) the total payments made by political subdivisions and development organizations for Breeders' Cup costs; and

(3) any other information requested by the commission.

(e) Following receipt of the report required by Subsection (d) of this section, the commission shall take any steps it considers appropriate to verify the report. Not later than March 31 of the year following the event, the commission shall transfer to the credit of the general revenue fund any balance remaining in the Breeders' Cup Developmental Account after reimbursement of any remaining Breeders' Cup costs authorized under this section.

(f) In addition to the authority otherwise granted in this Act, the commission and the comptroller may adopt rules for the administration of this section as follows:

(1) the commission may adopt rules relating to:

(A) auditing or other verification of Breeders' Cup costs and amounts paid or set aside by political subdivisions and development organizations; and

(B) the disbursement of funds from the Breeders' Cup Developmental Account; and

(2) the comptroller may adopt rules relating to:

(A) procedures and requirements for transmitting or otherwise delivering to the treasury the money set aside under this section; and

(B) depositing funds into the Breeders' Cup Developmental Account.

(g) The commission may adopt rules to facilitate the conduct of the Breeders' Cup races, including the adoption of rules or waiver of existing rules relating to the overall conduct of racing during the Breeders' Cup races in order to assure the integrity of the races, licensing for all participants, special stabling and training requirements for foreign horses, and commingling of pari-mutuel pools.

(h) The provisions of this section prevail over any conflicting provisions of this Act.

Acts 1986, 69th Leg., 2nd C.S., ch. 19, Sec. 1, eff. Dec. 4, 1986. Sec. 1.03(7), (9), (11), (13) to (15), (19), (28), (32), (35), (46), (55) amended by and Sec. 1.03(58) to (66) added by Acts 1991, 72nd Leg., ch. 386, Sec. 1, eff. Aug. 26, 1991; Sec. 2.02(c) added by Acts 1991, 72nd Leg., ch. 386, Sec. 2, eff. Aug. 26, 1991; Sec. 2.05 amended by Acts 1991, 72nd Leg., ch. 561, Sec. 63, eff. Aug. 26, 1991; Sec. 2.08 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 3,

eff. Aug. 26, 1991; Sec. 2.10 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 4, eff. Aug. 26, 1991; Sec. 2.15 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 5, eff. Aug. 26, 1991; Sec. 2.16 added by Acts 1991, 72nd Leg., ch. 386, Sec. 6, eff. Aug. 26, 1991; Sec. 3.02 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 7, eff. Aug. 26, 1991; Sec. 3.021 added as art. 179e-4 by Acts 1986, 69th Leg., 2nd C.S., ch. 19, Sec. 8, eff. Dec. 4, 1986 and redesignated by Acts 1991, 72nd Leg., ch. 386, Sec. 7, eff. Aug. 26, 1991; Sec. 3.04 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 8, eff. Aug. 26, 1991; Sec. 3.05(b) amended by Acts 1991, 72nd Leg., ch. 386, Sec. 9, eff. Aug. 26, 1991; Sec. 3.07(a), (d), (e) amended by and Sec. 3.07(f), (g) added by Acts 1991, 72nd Leg., ch. 386, Sec. 10, eff. Aug. 26, 1991; Sec. 3.08 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 11, eff. Aug. 26, 1991; Sec. 4.01 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 12, eff. Aug. 26, 1991; Sec. 4.02 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 13, eff. Aug. 26, 1991; Sec. 4.04 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 14, eff. Aug. 26, 1991; Sec. 4.05 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 15, eff. Aug. 26, 1991; Sec. 4.06 added by Acts 1991, 72nd Leg., ch. 386, Sec. 16, eff. Aug. 26, 1991; Sec. 5.01(b) amended by and Sec. 5.01(c) added by Acts 1991, 72nd Leg., ch. 386, Sec. 17, eff. Aug.26, 1991; Sec. 5.02 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 18, eff. Aug. 26, 1991; Sec. 5.03(a), (b) amended by Acts 1991, 72nd Leg., ch. 386, Sec. 19, eff. Aug. 26, 1991; Sec. 5.04(c) amended by Acts 1991, 72nd Leg., ch. 386, Sec. 20, eff. Aug. 26, 1991; Sec. 6.01 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 21, eff. Aug. 26, 1991; Sec. 6.02 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 22, eff. Aug. 26, 1991; Sec. 6.02(g) added by Acts 1991, 72nd Leg., ch. 386, Sec. 23, eff. Aug. 26, 1991; Sec. 6.03(a), (b), (e) amended by Acts 1991, 72nd Leg., ch. 386, Sec. 24, eff. Aug. 26, 1991; Sec. 6.03(h) added by Acts 1991, 72nd Leg., ch. 386, Sec. 25, eff. Aug. 26, 1991; Sec. 6.03(i) added by Acts 1991, 72nd Leg., ch. 386, Sec. 26, eff. Aug. 26, 1991; Sec. 6.031 added as art. 179e-3 by Acts 1986, 69th Leg., 2nd C.S., ch. 19, Sec. 7, eff. Dec. 4, 1986 and redesignated by Acts 1991, 72nd Leg., ch. 386, Sec. 68, eff. Aug. 26, 1991; Sec. 6.04 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 27, eff. Aug. 26, 1991; Sec. 6.05 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 74(a), eff. Aug. 26, 1991; Sec. 6.06(a)(10) amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(55), eff. Sept. 1, 1991; Sec. 6.06(d), (h) amended by Acts 1991, 72nd Leg., ch. 386, Sec. 28, eff. Aug. 26, 1991; Sec. 6.08

amended by Acts 1991, 72nd Leg., ch. 386, Sec. 29, eff. Aug. 26, 1991; Sec. 6.09(a) amended by Acts 1991, 72nd Leg., ch. 386, Sec. 30, eff. Aug. 26, 1991; Sec. 6.09(b) amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 15.01; Sec. 6.09(d) amended by Acts 1991, 72nd Leg., ch. 386, Sec. 30, eff. Aug. 26, 1991; Sec. 6.09(e) added by Acts 1991, 72nd Leg., ch. 386, Sec. 30, eff. Aug. 26, 1991; Sec. 6.091 added by Acts 1991, 72nd Leg., ch. 386, Sec. 31, eff. Aug. 26, 1991; Sec. 6.10 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 32, eff. Aug. 26, 1991; Sec. 6.11(a) amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 15.02; Sec. 6.13 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 33, eff. Aug. 26, 1991; Sec. 6.14(a) amended by Acts 1991, 72nd Leg., ch. 386, Sec. 34, eff. Aug. 26, 1991; Sec. 6.16 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 35, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 561, Sec. 63, eff. Aug. 26, 1991; Sec. 6.17(a) amended by Acts 1991, 72nd Leg., ch. 386, Sec. 36, eff. Aug. 26, 1991; Sec. 6.17(d) amended by Acts 1991, 72nd Leg., ch. 386, Sec. 37, eff. Aug. 26, 1991; Sec. 6.17(e) amended by Acts 1991, 72nd Leg., ch. 386, Sec. 74(a), eff. Aug. 26, 1991; Secs. 6.18, 6.19 added by Acts 1991, 72nd Leg., ch. 386, Sec. 38, eff. Aug. 26, 1991; Sec. 7.01 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 39, eff. Aug. 26, 1991; Sec. 7.02 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 40, eff. Aug. 26, 1991; Sec. 7.04(9) amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(55), eff. Sept. 1, 1991; Sec. 7.06 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 41, eff. Aug. 26, 1991; Sec. 7.09 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 42, eff. Aug. 26, 1991; Sec. 7.10 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 74(a), eff. Aug. 26, 1991; Sec. 8.01 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 43, eff. Aug. 26, 1991; Sec. 8.02(a) amended by Acts 1991, 72nd Leg., ch. 386, Sec. 44, eff. Aug. 26, 1991; Secs. 9.02, 9.03 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 45, eff. Aug. 26, 1991; Secs. 9.05, 9.06 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 46, eff. Aug. 26, 1991; Sec. 9.07 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 47, eff. Aug. 26, 1991; Secs. 10.04 to 10.06 added by Acts 1991, 72nd Leg., ch. 386, Sec. 48, eff. Aug. 26, 1991; Sec. 11.01 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 49, eff. Aug. 26, 1991; Sec. 11.011 added by Acts 1991, 72nd Leg., ch. 386, Sec. 50, eff. Aug. 26, 1991; Sec. 11.04(a) amended by and Sec. 11.04(d) added by Acts 1991, 72nd Leg., ch. 386, Sec. 51, eff. Aug. 26, 1991; Sec. 11.06 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 52, eff. Aug. 26, 1991; Sec. 11.07

amended by Acts 1991, 72nd Leg., ch. 386, Sec. 53, eff. Aug. 26, 1991; Sec. 11.08 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 54, eff. Aug. 26, 1991; Sec. 11.10 added by Acts 1991, 72nd Leg., ch. 386, Sec. 55, eff. Aug. 26, 1991; Secs. 12.01, 12.02 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 56, eff. Aug. 26, 1991; Sec. 12.03 added by Acts 1991, 72nd Leg., ch. 386, Sec. 57, eff. Aug. 26, 1991; Sec. 13.02(c) amended by Acts 1991, 72nd Leg., ch. 386, Sec. 58, eff. Aug. 26, 1991; Sec. 14.03(b), (d) amended by Acts 1991, 72nd Leg., ch. 386, Sec. 59, eff. Aug. 26, 1991; Secs. 14.06, 14.07 added by Acts 1991, 72nd Leg., ch. 386, Sec. 60, eff. Aug. 26, 1991; Sec. 15.01 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 61, eff. Aug. 26, 1991; Sec. 15.03 added by Acts 1991, 72nd Leg., ch. 386, Sec. 62, eff. Aug. 26, 1991; Sec. 15.04 added by Acts 1991, 72nd Leg., ch. 386, Sec. 63, eff. Aug. 26, 1991; Sec. 16.14 amended by Acts 1991, 72nd Leg., ch. 597, Sec. 1, eff. Sept. 1, 1991; Secs. 17.01 to 17.06 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 74(b), eff. Aug. 26, 1991; Sec. 18.01(a) amended by Acts 1991, 72nd Leg., ch. 386, Sec. 64, eff. Aug. 26, 1991; Sec. 18.01(a) amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 2.22, eff. Nov. 12, 1991; Sec. 18.03 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 65, eff. Aug. 26, 1991; Sec. 18.05 amended by Acts 1991, 72nd Leg., ch. 386, Sec. 66, eff. Aug. 26, 1991; Sec. 18.07 added by Acts 1991, 72nd Leg., ch. 386, Sec. 67, eff. Aug. 26, 1991; Sec. 3.09(b) amended by Acts 1993, 73rd Leg., ch. 309, Sec. 1, eff. Aug. 30, 1993; Sec. 5.04(b), (c) repealed by Acts 1993, 73rd Leg., ch. 790, Sec. 46(8), eff. Sept. 1, 1993; Sec. 6.14(d) added by Acts 1993, 73rd Leg., ch. 405, Sec. 1, eff. June 2, 1993; Sec. 6.19(e) amended by Acts 1993, 73rd Leg., ch. 405, Sec. 2, eff. June 2, 1993; Sec. 18.01(a) amended by Acts 1995, 74th Leg., ch. 970, Sec. 1.05, eff. Sept. 1, 1995; Sec. 1.02 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 1, eff. Sept. 1, 1997; Sec. 1.03(67) to (78) added by Acts 1997, 75th Leg., ch. 1275, Sec. 2, eff. Sept. 1, 1997; Sec. 2.02(a), (b) amended by Acts 1997, 75th Leg., ch. 1275, Sec. 3, eff. Sept. 1, 1997; Sec. 2.03 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 4, eff. Sept. 4, 1997; Sec. 2.05 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 5, eff. Sept. 1, 1997; Sec. 2.07 repealed by Acts 1997, 75th Leg., ch. 1275, Sec. 54, eff. Sept. 1, 1997; Secs. 2.071 to 2.074 added by Acts 1997, 75th Leg., ch. 1275, Sec. 6, eff. Sept. 1, 1997; Sec. 2.10 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 7, eff. Sept. 1, 1997; Secs. 2.11(b) amended by and Sec. 2.11(d) added by Acts 1997, 75th Leg.,

ch. 1275, eff. Sept. 1, 1997; Sec. 2.12(b), (c) amended by Acts 1997, 75th Leg., ch. 1275, Sec. 9, eff. Sept. 1, 1997; Secs. 2.17 to 2.24 added by Acts 1997, 75th Leg., ch. 1275, Sec. 10, eff. Sept. 1, 1997; Sec. 3.01 repealed by Acts 1997, 75th Leg., ch. 1275, Sec. 54, eff. Sept. 1, 1997; Sec. 3.02 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 11, eff. Sept. 1, 1997; Sec. 3.021(b) amended and Sec. 3.021(d) added by Acts 1997, 75th Leg., ch. 1275, Sec. 12, eff. Sept. 1, 1997; Sec. 3.03 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 13, eff. Sept. 1, 1997; Secs. 3.07(a), (b), (d), (e) amended by Acts 1997, 75th Leg., ch. 1275, Sec. 14, eff. Sept. 1, 1997; Sec. 3.08(b) amended by Acts 1997, 75th Leg., ch. 1275, Sec. 15, eff. Sept. 1, 1997; Secs. 3.13 to 3.22 added by Acts 1997, 75th Leg., ch. 1275, Sec. 16, eff. Sept. 1, 1997; Sec. 5.01(a) amended by Acts 1997, 75th Leg., ch. 1275, Sec. 17, eff. Sept. 1, 1997; Secs. 5.03(a), (b) amended by Acts 1997, 75th Leg., ch. 1275, Sec. 18, eff. Sept. 1, 1997; Sec. 5.05 added by Acts 1997, 75th Leg., ch. 1275, Sec. 19, eff. Sept. 1, 1997; Sec. 6.01 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 20, eff. Sept. 1, 1997; Sec. 6.02(b) amended by Acts 1997, 75th Leg., ch. 1275, Sec. 21, eff. Sept. 1, 1997; Secs. 6.04(a), (d) amended by Acts 1997, 75th Leg., ch. 1275, Sec. 22, eff. Sept. 1, 1997; Secs. 6.06(a), (b), (e) to (g) amended and Sec. 6.06(i) added by Acts 1997, 75th Leg., ch. 1275, Sec. 23, eff. Sept. 1, 1997; Secs. 6.061 to 6.063 added by Acts 1997, 75th Leg., ch. 1275, Sec. 24, eff. Sept. 1, 1997; Sec. 6.08(b) amended by Acts 1997, 75th Leg., ch. 1275, Sec. 25, eff. Sept. 1, 1997; Sec. 6.08(c) repealed by Acts 1997, 75th Leg., ch. 1275, Sec. 54, eff. Sept. 1, 1997; Sec. 6.09(b) repealed by Acts 1997, 75th Leg., ch. 1275, Sec. 54, eff. Sept. 1, 1997; Sec. 6.09(f) added by Acts 1997, 75th Leg., ch. 1275, Sec. 26, eff. Sept. 1, 1997; Sec. 6.091 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 27, eff. Sept. 1997; Secs. 6.092, 6.093 added by Acts, 1997, 75th Leg., ch. 1275, Sec. 28, eff. Sept. 1, 1997; Sec. 7.01 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 29, eff. Sept. 1, 1997; Sec. 7.02(a) amended and Sec. 7.02(c) to (e) added by Acts 1997, 75th Leg., ch. 1275, Sec. 30, eff. Sept. 1, 1997; Sec. 7.04 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 31, eff. Sept. 1, 1997; Sec. 7.05 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 32, eff. Sept. 1, 1997; Sec. 7.07 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 33, eff. Sept. 1, 1997; Sec. 7.10 added by Acts 1997, 75th Leg., ch. 34, eff. Sept. 1, 1997; Sec. 9.01 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 35, eff. Sept. 1, 1997; Sec.

10.04 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 36, eff. Sept. 1, 1997; Sec. 11.011(g) amended by and Sec. 11.011(h) to (m) added by Acts 1997, 75th Leg., ch. 1275, Sec. 37, eff. Sept. 1, 1997; Sec. 11.04(c) amended by Acts 1997, 75th Leg., ch. 1275, Sec. 38, eff. Sept. 1, 1997; Sec. 11.04(d) repealed by Acts 1997, 75th Leg., ch. 1275, Sec. 54, eff. Sept. 1, 1997; Sec. 11.04(e)added by Acts 1997, 75th Leg., ch. 1275, Sec. 38, eff. Sept. 1, 1997; Sec. 11.06 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 39, eff. Sept. 1, 1997; Sec. 11.08 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 40, eff. Sept. 1, 1997; Sec. 11.09 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 41, eff. Sept. 1, 1997; Sec. 13.03 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 42, eff. Sept. 1, 1997; Secs. 14.01, 14.02, 14.04 to 14.07 amended by and Sec. 14.03 deleted by and Secs. 14.08 to 14.21 added by Acts 1997, 75th Leg., ch. 1275, Sec. 43, eff. Sept. 1, 1997; Sec. 15.01 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 44, eff. Sept. 1, 1997; Sec. 15.02 repealed by Acts 1997, 75th Leg., ch. 1275, Sec. 54, eff. Sept. 1, 1997; Sec. 16.021 added by Acts 1997, 75th Leg., ch. 1275, Sec. 45, eff. Sept. 1, 1997; Sec. 6.11(b) amended by Acts 1997, 75th Leg., ch. 1275, Sec. 46, eff. Sept. 1, 1997; Sec. 16.12(a) amended by Acts 1997, 75th Leg., ch. 1275, Sec. 47, eff. Sept. 1, 1997; Sec. 18.01(a) amended by Acts 1997, 75th Leg., ch. 1275, Sec. 48, eff. Sept. 1, 1997; Sec. 18.02 repealed by Acts 1997, 75th Leg., ch. 1275, Sec. 54, eff. Sept. 1, 1997; Sec. 18.06 amended by Acts 1997, 75th Leg., ch. 1275, Sec. 49, eff. Sept. 1, 1997; Sec. 18.08 added by Acts 1997, 75th Leg., ch. 1275, eff. Sept. 1, 1997; Sec. 1.03(21) amended by Acts 2001, 77th Leg., ch. 490, Sec. 1, eff. Jan. 1, 2002; Sec. 6.02(b) amended by Acts 2001, 77th Leg., ch. 669, Sec. 152, eff. Sept. 1, 2001; Sec. 6.08(n) added by Acts 2001, 77th Leg., ch. 490, Sec. 2, eff. Jan. 1, 2002; Sec. 6.094 added by Acts 2001, 77th Leg., ch. 334, Sec. 1, eff. Sept. 1, 2001; Sec. 6.17(b) amended by Acts 2001, 77th Leg., ch. 669, Sec. 153, eff. Sept. 1, 2001; Sec. 9.03 amended by Acts 2001, 77th Leg., ch. 490, Sec. 3, eff. Jan. 1, 2002; Sec. 11.011(e) amended by Acts 2001, 77th Leg., ch. 1263, Sec. 81, eff. Oct. 1, 2001; Sec. 16.14 amended by Acts 2001, 77th Leg., ch. 669, Sec. 154, eff. Sept. 1, 2001; Sec. 2.02(a) amended by Acts 2003, 78th Leg., ch. 492, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1170, Sec. 37.01, eff. Sept. 1, 2003; Sec. 2.03(a) amended by Acts 2003, 78th Leg., ch. 492, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1170, Sec. 37.02, eff. Sept. 1, 2003; Sec. 2.05(a) amended by Acts 2003,

78th Leg., ch. 492, Sec. 3, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1170, Sec. 37.03, eff. Sept. 1, 2003; Sec. 3.07(d) amended by Acts 2003, 78th Leg., ch. 444, Sec. 1, eff. Sept. 1, 2003; Sec. 11.01(a) amended by Acts 2003, 78th Leg., ch. 285, Sec. 29, eff. Sept. 1, 2003; Sec. 18.01(a) amended by Acts 2003, 78th Leg., ch. 1112, Sec. 3.09, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1071 (H.B. 2701), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1071 (H.B. 2701), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1071 (H.B. 2701), Sec. 3, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1071 (H.B. 2701), Sec. 4, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1071 (H.B. 2701), Sec. 5, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1071 (H.B. 2701), Sec. 6, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1071 (H.B. 2701), Sec. 7, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1071 (H.B. 2701), Sec. 8, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1071 (H.B. 2701), Sec. 9, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1071 (H.B. 2701), Sec. 10, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1071 (H.B. 2701), Sec. 11, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1071 (H.B. 2701), Sec. 12, eff. September 1, 2007.

Acts 2009, 81st Leg., 1st C.S., Ch. 2 (S.B. 2), Sec. 1.15, eff. July 10, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 4, eff.

September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 5, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 6, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 7, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 8, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 9, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 10, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 11, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 12, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 13, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 14, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 15, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 16, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 17, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 18, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 19, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 20, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 522 (H.B. 2271), Sec. 26, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 684 (H.B. 254), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(166), eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(167),

eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 57 (H.B. 1187), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 144 (H.B. 1186), Sec. 1, eff. May 24, 2013.

Acts 2015, 84th Leg., R.S., Ch. 938 (H.B. 3123), Sec. 2.04, eff. June 18, 2015.

Acts 2017, 85th Leg., R.S., Ch. 131 (H.B. 1106), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 3.01(1), eff. April 1, 2019.

Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 3.01(2), eff. April 1, 2019.

TITLE 8. APPORTIONMENT
TITLE 15. ATTORNEYS--DISTRICT AND COUNTY

Text of title effective until January 1, 2022

TITLE 19. BLUE SKY LAW--SECURITIES

Text of article effective until January 1, 2022

Art. 581-1. SHORT TITLE OF ACT. This Act shall be known and may be cited as "The Securities Act."

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 1.

Text of article effective until January 1, 2022

Art. 581-2. CREATING THE STATE SECURITIES BOARD AND PROVIDING FOR APPOINTMENT OF SECURITIES COMMISSIONER. A. The State Securities Board is hereby created. The Board shall consist of five citizens of the state appointed by the governor with the advice and consent of the Senate. Members of the Board serve for staggered terms of six years, with as near as possible to one-third of the members' terms expiring January 20 of each odd-numbered year. Vacancies shall be filled by the Governor for the unexpired term. Members shall be eligible for reappointment. Appointments to the Board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

B. Board members must be members of the general public. A

person is not eligible for appointment as a member if the person or the person's spouse:

(1) is registered as a dealer, agent, investment adviser, or investment adviser representative;

(2) has an active notice filing under this Act to engage in business in this state as an investment adviser or investment adviser representative;

(3) is employed by or participates in the management of a business entity engaged in business as a securities dealer or investment adviser; or

(4) has, other than as a consumer, a financial interest in a business entity engaged in business as a securities dealer or investment adviser.

D. Each member of the Board is entitled to per diem as set by legislative appropriation for each day that the member engages in the business of the Board.

The Governor shall designate a member of the Board as the presiding officer of the Board to serve in that capacity at the will of the Governor. A majority of the members shall constitute a quorum for the transaction of any business.

E. It is a ground for removal from the Board that a member:

(1) does not have at the time of taking office the qualifications required by Subsection A or B of this section for appointment to the Board;

(2) does not maintain during service on the Board the qualifications required by Subsection A or B of this section for appointment to the Board;

(3) is ineligible for membership under Subsection B of this section or Subsection B or C of Section 2-1 of this Act;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled Board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the Board.

F. The validity of an action of the Board is not affected by the fact that it is taken when a ground for removal of a Board member exists. If the Commissioner has knowledge that a potential ground for removal exists, the Commissioner shall notify the presiding officer of the Board of the potential ground. The presiding officer

shall then notify the Governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the Commissioner shall notify the next highest ranking officer of the Board, who shall then notify the Governor and the attorney general that a potential ground for removal exists.

G. The Board shall appoint a Securities Commissioner who serves at the pleasure of the Board and who shall, under the supervision of the Board, administer the provisions of this Act. Each member of the Board shall have access to all offices and records under his supervision, and the Board, or a majority thereof, may exercise any power or perform any act authorized to the Securities Commissioner by the provisions of this Act.

H. The Commissioner, with the consent of the Board, may designate a Deputy Securities Commissioner who shall perform all the duties required by law to be performed by the Securities Commissioner when the said Commissioner is absent or unable to act for any reason. The Commissioner shall appoint other persons as necessary to carry out the powers and duties of the Commissioner under this Act and other laws granting jurisdiction or applicable to the Board or the Commissioner. The Commissioner may delegate to the other persons appointed under this subsection powers and duties of the Commissioner as the Commissioner considers necessary.

I. Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(48).

J. On or before January 1 of each year, the Board, with the advice of the Commissioner, shall report to the Governor and the presiding officer of each house of the Legislature as to its administration of this Act, as well as plans and needs for future securities regulation. The report must include:

(1) a detailed accounting of all funds received and disbursed by the Board during the preceding year, including the amount spent by the Board assisting in the criminal prosecution of cases under Subsection B of Section 3 of this Act; and

(2) with respect to cases referred during the preceding year by the Board under Subsection A of Section 3 of this Act, a breakdown by county and district attorney of the number of cases where:

(A) criminal charges were filed;

(B) prosecution is ongoing; or

(C) prosecution was completed.

K. The Commissioner or his designee shall develop an intraagency career ladder program, one part of which shall be the intraagency posting of all nonentry level positions for at least ten (10) days before any public posting. The Commissioner or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for Board employees must be based on the system established under this section.

L. The Board shall prepare information of consumer interest describing the regulatory functions of the Board and Commissioner and describing the Board's and Commissioner's procedures by which consumer complaints are filed with and resolved by the Board or Commissioner. The Board shall make the information available to the general public and appropriate state agencies. There shall be prominently displayed at all times in the place of business of each dealer, agent, investment adviser, or investment adviser representative regulated under this Act, a sign containing the name, mailing address, and telephone number of the Board and a statement informing consumers that complaints against a dealer, agent, investment adviser, or investment adviser representative may be directed to the Board.

M. The financial transactions of the Board are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

N. The Board and Commissioner are subject to Chapters 551, 2001, and 2002, Government Code.

O. The State Securities Board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this Act expires September 1, 2031.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 2.
Subsec. F added by Acts 1977, 65th Leg., p. 1841, ch. 735, Sec. 2.066, eff. Aug. 29, 1977. Amended by Acts 1983, 68th Leg., p. 2688, ch. 465, Sec. 1, eff. Sept. 1, 1983. Subsec. C amended by Acts 1985, 69th Leg., ch. 479, Sec. 5, eff. Sept. 1, 1985; Subsec. O amended by Acts 1985, 69th Leg., ch. 479, Sec. 83, eff. Sept. 1, 1985; Subsec. M amended by Acts 1989, 71st Leg., ch. 584, Sec. 13, eff. Sept. 1, 1989; Subsec. O amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 5.07, eff. Nov. 12, 1991; Subsec. N amended by Acts 1995, 74th Leg., ch. 228, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1091, Sec. 1.01, eff. Sept. 1, 2001; Subsec. I

amended by Acts 2003, 78th Leg., ch. 285, Sec. 31(48), eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 2.23, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1279 (H.B. 1675), Sec. 3.07, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 772 (H.B. 1535), Sec. 1, eff. September 1, 2019.

Text of article effective until January 1, 2022

Art. 581-2-1. CONFLICT OF INTEREST. A. In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

B. A person may not be a member of the Board and may not be a Board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in a field regulated by the Board; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in a field regulated by the Board.

C. A person may not be a member of the Board or act as the general counsel to the Board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the Board.

Added by Acts 2001, 77th Leg., ch. 1091, Sec. 1.02, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-2-2. INFORMATION ABOUT STANDARDS OF CONDUCT. The Commissioner or the Commissioner's designee shall provide to members of the Board and to Board employees, as often as necessary, information regarding the requirements for office or employment under this Act, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2001, 77th Leg., ch. 1091, Sec. 1.02, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-2-3. TRAINING. A. A person who is appointed to and qualifies for office as a member of the Board may not vote, deliberate, or be counted as a member in attendance at a meeting of the Board until the person completes a training program that complies with this section.

B. The training program must provide the person with information regarding:

(1) the law governing Board operations;

(2) the programs, functions, rules, and budget of the Board;

(3) the scope of and limitations on the rulemaking authority of the Board;

(4) the types of Board rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business the Board regulates, including any rule, interpretation, or enforcement action that:

(A) regulates the scope of practice of persons in a profession or business the Board regulates;

(B) restricts advertising by persons in a profession or business the Board regulates;

(C) affects the price of goods or services provided by persons in a profession or business the Board regulates; or

(D) restricts participation in a profession or business the Board regulates;

(5) the results of the most recent formal audit of the Board;

(6) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts-of-interest; and

(B) other laws applicable to members of a state policymaking body in performing their duties; and

(7) any applicable ethics policies adopted by the Board or the Texas Ethics Commission.

C. A person appointed to the Board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

D. The Commissioner shall create a training manual that includes the information required by Subsection B of this section. The Commissioner shall distribute a copy of the training manual annually to each member of the Board. Each member of the Board shall sign and submit to the Commissioner a statement acknowledging that the member received and has reviewed the training manual.

Added by Acts 2001, 77th Leg., ch. 1091, Sec. 1.02, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 772 (H.B. 1535), Sec. 2, eff. September 1, 2019.

Text of article effective until January 1, 2022

Art. 581-2-4. DIVISION OF POLICY AND MANAGEMENT RESPONSIBILITIES. The Board shall develop and implement policies that clearly separate the policymaking responsibilities of the Board and the management responsibilities of the Commissioner and employees of the Board.

Added by Acts 2001, 77th Leg., ch. 1091, Sec. 1.02, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-2-5. PUBLIC TESTIMONY. The Board by rule shall develop and implement policies that provide the public with a reasonable

opportunity to appear before the Board and to speak on any issue under the jurisdiction of the Board.

Added by Acts 2001, 77th Leg., ch. 1091, Sec. 1.02, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-2-6. COMPLAINTS INFORMATION. A. The Commissioner or the Commissioner's designee shall maintain a system to promptly and efficiently act on complaints filed with the Commissioner or Board. The Commissioner or the Commissioner's designee shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

B. The Commissioner or the Commissioner's designee shall make information available describing the Board's procedures for complaint investigation and resolution.

C. The Commissioner or the Commissioner's designee shall periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize a law enforcement investigation.

Added by Acts 2001, 77th Leg., ch. 1091, Sec. 1.02, eff. Sept. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 772 (H.B. 1535), Sec. 3, eff. September 1, 2019.

Text of article effective until January 1, 2022

Art. 581-2-7. EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT. A. The Commissioner or the Commissioner's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

B. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of

personnel, that show the intent of the Board to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the Board's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

C. The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection B(1) of this section; and

(3) be filed with the governor's office.

Added by Acts 2001, 77th Leg., ch. 1091, Sec. 1.02, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-2-8. ALTERNATIVE RULEMAKING AND DISPUTE RESOLUTION. A. The Board shall develop a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of Board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the Board's jurisdiction.

B. The Board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

C. The Board shall:

(1) coordinate the implementation of the policy adopted under Subsection A of this section;

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Added by Acts 2019, 86th Leg., R.S., Ch. 772 (H.B. 1535), Sec. 4, eff. September 1, 2019.

Text of article effective until January 1, 2022

Art. 581-3. ADMINISTRATION AND ENFORCEMENT BY THE SECURITIES COMMISSIONER AND THE ATTORNEY GENERAL AND LOCAL LAW ENFORCEMENT OFFICIALS. A. The administration of the provisions of this Act shall be vested in the Securities Commissioner. It shall be the duty of the Securities Commissioner and the Attorney General to see that its provisions are at all times obeyed and to take such measures and to make such investigations as will prevent or detect the violation of any provision thereof. The Commissioner shall at once lay before the District or County Attorney of the proper county any evidence which shall come to his knowledge of criminality under this Act. In the event of the neglect or refusal of such attorney to institute and prosecute such violation, the Commissioner shall submit such evidence to the Attorney General, who is hereby authorized to proceed therein with all the rights, privileges and powers conferred by law upon district or county attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand juries.

B. Subject to Subsection E of this section, the Board may provide assistance to a county or district attorney who requests assistance in a criminal prosecution involving an alleged violation of this Act that is referred by the Board to the attorney under Subsection A of this section.

C. Before referring a case to a county or district attorney for prosecution as required by Subsection A of this section, the Commissioner shall make a determination of:

(1) the potential resources of the Board, including the number and types of Board employees, that would be needed to assist in the prosecution of the case; and

(2) the availability of Board employees and other resources necessary to carry out any request for assistance.

D. The Board by rule shall establish a process to enable the Commissioner to determine whether to provide any requested assistance to the appropriate prosecuting attorney following referral of a case under Subsection A of this section and, if so, the appropriate amount of such assistance. The rules must require the Commissioner to consider:

(1) whether resources are available after taking into account any ongoing Board investigations, investigations under Section 28 of this Act, and criminal prosecutions for which assistance is being provided;

(2) the seriousness of the alleged violation or violations in the case, including the severity of the harm and number of victims involved; and

(3) the state's interest in the prosecution of a particular case and the availability of other methods of redress for the alleged violations, including the pursuit of a civil action.

E. In response to a request for assistance under Subsection B of this section, the Board may provide only those Board employees or resources, if any, determined to be available for that case in accordance with Subsection C of this section. If a change in circumstances occurs after the time of the determination under Subsection C of this section, the Commissioner may reconsider the Commissioner's determination under that subsection and may increase or reduce the number of Board employees or other resources to be made available for a case using the process established under Subsection D of this section.

F. The Attorney General, at least biennially, shall review a sample of criminal cases for which the Board provided requested assistance to county or district attorneys under this section. The review must include an evaluation of the pre-referral determination of available resources to support each case being reviewed as required by Subsection C of this section and any subsequent determination of those resources made by the Commissioner as authorized under Subsection E of this section. The Attorney General may report any concerns the Attorney General has in connection with the Board's provision of assistance to the standing committee of each house of the legislature with primary jurisdiction over Board matters.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 3.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 772 (H.B. 1535), Sec. 5, eff. September 1, 2019.

Text of article effective until January 1, 2022

Art. 581-3-1. NONEXCLUSIVITY OF MEANS OF ENFORCEMENT. The Commissioner may utilize any or all penalties, sanctions, remedies, or relief as the Commissioner deems necessary.

Added by Acts 1995, 74th Leg., ch. 228, Sec. 2, eff. Sept. 1, 1995.

Text of article effective until January 1, 2022

Art. 581-4. DEFINITIONS. The following terms shall, unless the context otherwise indicates, have the following respective meanings:

A. The term "security" or "securities" shall include any limited partner interest in a limited partnership, share, stock, treasury stock, stock certificate under a voting trust agreement, collateral trust certificate, equipment trust certificate, preorganization certificate or receipt, subscription or reorganization certificate, note, bond, debenture, mortgage certificate or other evidence of indebtedness, any form of commercial paper, certificate in or under a profit sharing or participation agreement, certificate or any instrument representing any interest in or under an oil, gas or mining lease, fee or title, or any certificate or instrument representing or secured by an interest in any or all of the capital, property, assets, profits or earnings of any company, investment contract, or any other instrument commonly known as a security, whether similar to those herein referred to or not. The term applies regardless of whether the "security" or "securities" are evidenced by a written instrument. Provided, however, that this definition shall not apply to any insurance policy, endowment policy, annuity contract, optional annuity contract, or any contract or agreement in relation to and in consequence of any such policy or contract, issued by an insurance company subject to the supervision or control of the Texas Department of Insurance when the form of such policy or contract has been duly filed with the Department as now or hereafter required by law.

581-4 B. The terms "person" and "company" shall include a corporation, person, joint stock company, partnership, limited partnership, association, company, firm, syndicate, trust, incorporated or unincorporated, heretofore or hereafter formed under the laws of this or any other state, country, sovereignty or political subdivision thereof, and shall include a government, or a political subdivision or agency thereof. As used herein, the term "trust" shall be deemed to include a common law trust, but shall not include a trust created or appointed under or by virtue of a last will and testament or by a court of law or equity.

C. The term "dealer" shall include every person or company other

than an agent, who engages in this state, either for all or part of his or its time, directly or through an agent, in selling, offering for sale or delivery or soliciting subscriptions to or orders for, or undertaking to dispose of, or to invite offers for any security or securities and every person or company who deals in any other manner in any security or securities within this state. Any issuer other than a registered dealer of a security or securities, who, directly or through any person or company, other than a registered dealer, offers for sale, sells or makes sales of its own security or securities shall be deemed a dealer and shall be required to comply with the provisions hereof; provided, however, this section or provision shall not apply to such issuer when such security or securities are offered for sale or sold either to a registered dealer or only by or through a registered dealer acting as fiscal agent for the issuer; and provided further, this section or provision shall not apply to such issuer if the transaction is within the exemptions contained in the provisions of Section 5 of this Act.

D. The term "agent" shall include every person or company employed or appointed or authorized by a dealer to sell, offer for sale or delivery, or solicit subscriptions to or orders for, or deal in any other manner, in securities within this state, whether by direct act or through subagents; provided, that the officers of a corporation or partners of a partnership shall not be deemed agents solely because of their status as officers or partners, where such corporation or partnership is registered as a dealer hereunder.

E. The terms "sale" or "offer for sale" or "sell" shall include every disposition, or attempt to dispose of a security for value. The term "sale" means and includes contracts and agreements whereby securities are sold, traded or exchanged for money, property or other things of value, or any transfer or agreement to transfer, in trust or otherwise. Any security given or delivered with or as a bonus on account of any purchase of securities or other thing of value, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been sold for value. The term "sell" means any act by which a sale is made, and the term "sale" or "offer for sale" shall include a subscription, an option for sale, a solicitation of sale, a solicitation of an offer to buy, an attempt to sell, or an offer to sell, directly or by an agent, by a circular, letter, or advertisement or otherwise, including the deposit in a United States Post Office or mail box or in any manner in the United States mails

within this State of a letter, circular or other advertising matter. Nothing herein shall limit or diminish the full meaning of the terms "sale," "sell" or "offer for sale" as used by or accepted in courts of law or equity. The sale of a security under conditions which entitle the purchaser or subsequent holder to exchange the same for, or to purchase some other security, shall not be deemed a sale or offer for sale of such other security; but no exchange for or sale of such other security shall ever be made unless and until the sale thereof shall have been first authorized in Texas under this Act, if not exempt hereunder, or by other provisions of law.

F. The terms "fraud" or "fraudulent practice" shall include any misrepresentations, in any manner, of a relevant fact; any promise or representation or predication as to the future not made honestly and in good faith, or an intentional failure to disclose a material fact; the gaining, directly or indirectly, through the sale of any security, of an underwriting or promotion fee or profit, selling or managing commission or profit, so gross or exorbitant as to be unconscionable; any scheme, device or other artifice to obtain such profit, fee or commission; provided, that nothing herein shall limit or diminish the full meaning of the terms "fraud," "fraudulent," and "fraudulent practice" as applied or accepted in courts of law or equity.

G. "Issuer" shall mean and include every company or person who proposes to issue, has issued, or shall hereafter issue any security.

H. "Broker" shall mean dealer as herein defined.

I. "Mortgage" shall be deemed to include a deed of trust to secure a debt.

J. If the sense requires it, words in the present tense include the future tense, in the masculine gender include the feminine and neuter gender, in the singular number include the plural number, and in the plural number include the singular number; "and" may be read "or" and "or" may be read "and".

K. "No par value" or "non-par" as applied to shares of stock or other securities shall mean that such shares of stock or other securities are without a given or specified par value. Whenever any classification or computation in this Act mentioned is based upon "par value" as applied to shares of stock or other securities of no par value, the amount for which such securities are sold or offered for sale to the public shall be used as a basis of such classification or computation.

L. The term "include" when used in a definition contained in this Act shall not be deemed to exclude other things or persons otherwise within the meaning of the term defined.

M. "Registered dealer" shall mean a dealer as hereinabove defined who has been duly registered by the Commissioner as in Section 15 of this Act provided.

N. "Investment adviser" includes a person who, for compensation, engages in the business of advising another, either directly or through publications or writings, with respect to the value of securities or to the advisability of investing in, purchasing, or selling securities or a person who, for compensation and as part of a regular business, issues or adopts analyses or a report concerning securities, as may be further defined by Board rule. The term does not include:

(1) a bank or a bank holding company, as defined by the Bank Holding Company Act of 1956 (12 U.S.C. Section 1841 et seq.), as amended, that is not an investment company;

(2) a lawyer, accountant, engineer, teacher, or geologist whose performance of the services is solely incidental to the practice of the person's profession;

(3) a dealer or agent who receives no special compensation for those services and whose performance of those services is solely incidental to transacting business as a dealer or agent;

(4) the publisher of a bona fide newspaper, news magazine, or business or financial publication of general and regular circulation; or

(5) a person whose advice, analyses, or report does not concern a security other than a security that is:

(A) a direct obligation of or an obligation the principal or interest of which is guaranteed by the United States government; or

(B) issued or guaranteed by a corporation in which the United States has a direct or indirect interest and designated by the United States Secretary of the Treasury under Section 3(a)(12), Securities Exchange Act of 1934 (15 U.S.C. Section 78c(a)(12)), as amended, as an exempt security for purposes of that Act.

O. "Federal covered investment adviser" means an investment adviser who is registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.), as amended.

P. "Investment adviser representative" or "representative of an investment adviser" includes each person or company who, for

compensation, is employed, appointed, or authorized by an investment adviser to solicit clients for the investment adviser or who, on behalf of an investment adviser, provides investment advice, directly or through subagents, as defined by Board rule, to the investment adviser's clients. The term does not include a partner of a partnership or an officer of a corporation or other entity that is registered as an investment adviser under this Act solely because of the person's status as an officer or partner of that entity.

Q. "Registered investment adviser" means an investment adviser who has been issued a registration certificate by the Commissioner under Section 15 of this Act.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 4.
Subsec. A amended by Acts 1989, 71st Leg., ch. 733, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 917, Sec. 3, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 228, Sec. 3, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 108, Sec. 1, eff. May 20, 2003.
Subsec. B amended by Acts 1971, 62nd Leg., p. 1085, ch. 235, Sec. 1, eff. May 17, 1971; Acts 2001, 77th Leg., ch. 1091, Sec. 2.01, eff. Sept. 1, 2001.
Subsec. C amended by Acts 1989, 71st Leg., ch. 733, Sec. 1, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 1091, Sec. 2.01, eff. Sept. 1, 2001.
Subsec. D amended by Acts 1989, 71st Leg., ch. 733, Sec. 1, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 1091, Sec. 2.01, eff. Sept. 1, 2001.
Subsec. E amended by Acts 1979, 66th Leg., p. 348, ch. 160, Sec. 1, eff. May 15, 1979; Acts 2001, 77th Leg., ch. 1091, Sec. 2.01, eff. Sept. 1, 2001.
Subsec. N added by Acts 2001, 77th Leg., ch. 1091, Sec. 2.01, eff. Sept. 1, 2001.
Subsec. O added by Acts 2001, 77th Leg., ch. 1091, Sec. 2.01, eff. Sept. 1, 2001.
Subsec. P added by Acts 2001, 77th Leg., ch. 1091, Sec. 2.01, eff. Sept. 1, 2001.
Subsec. Q added by Acts 2001, 77th Leg., ch. 1091, Sec. 2.01, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-5. EXEMPT TRANSACTIONS. Except as hereinafter in this Act specifically provided, the provisions of this Act shall not apply to the sale of any security when made in any of the following transactions and under any of the following conditions, and the company or person engaged therein shall not be deemed a dealer within the meaning of this Act; that is to say, the provisions of this Act shall not apply to any sale, offer for sale, solicitation, subscription, dealing in or delivery of any security under any of the following transactions or conditions:

A. At any judicial, executor's, administrator's, guardian's or conservator's sale, or any sale by a receiver or trustee in insolvency or bankruptcy.

B. The sale by or for the account of a pledge holder or mortgagee, selling or offering for sale or delivery in the ordinary course of business to liquidate a bona fide debt, of a security pledged in good faith as security for such debt.

C. (1) Sales of securities made by or in behalf of a vendor, whether by dealer or other agent, in the ordinary course of bona fide personal investment of the personal holdings of such vendor, or change in such investment, if such vendor is not engaged in the business of selling securities and the sale or sales are isolated transactions not made in the course of repeated and successive transactions of a like character; provided, that in no event shall such sales or offerings be exempt from the provisions of this Act when made or intended by the vendor or his agent, for the benefit, either directly or indirectly, of any company or corporation except the individual vendor (other than a usual commission to said agent), and provided further, that any person acting as agent for said vendor shall be registered pursuant to this Act;

(2) Sales by or on behalf of any insurance company subject to the supervision or control of the Texas Department of Insurance of any security owned by such company as a legal and bona fide investment, provided that in no event shall any such sale or offering be exempt from the provisions of this Act when made or intended, either directly or indirectly, for the benefit of any other company as that term is defined in this Act.

D. The distribution by a corporation of securities direct to its stockholders as a stock dividend or other distribution paid out of earnings or surplus.

E. Any offer and any transaction pursuant to any offer by the

issuer of its securities to its existing security holders (including persons who at the time of the transaction are holders of convertible securities or nontransferable warrants) if no commission or other remuneration (other than a stand-by commission) is paid or given directly or indirectly for soliciting any security holder in this State.

F. The issue in good faith of securities by a company to its security holders, or creditors, in the process of a bona fide reorganization of the company made in good faith, or the issue in good faith of securities by a company, organized solely for the purpose of taking over the assets and continuing the business of a predecessor company, to the security holders or creditors of such predecessor company, provided that in either such case such securities are issued in exchange for the securities of such holders or claims of such creditors, or both, and in either such case security holders or creditors do not pay or give or promise and are not obligated to pay or give any consideration for the securities so issued other than the securities of or claims against said company or its predecessor then held or owned by them.

G. The issue or sale of securities (a) by one corporation to another corporation or the security holders thereof pursuant to a vote by one or more classes of such security holders, as required by the certificate of incorporation or the applicable corporation statute, in connection with a merger, consolidation or sale of corporate assets, or (b) by one corporation to its own stockholders in connection with the change of par value stock to no par value stock or vice versa, or the exchange of outstanding shares for the same or a greater or smaller number of shares; provided that in any such case such security holders do not pay or give or promise and are not obligated to pay or give any consideration for the securities so issued or sold other than the securities of the corporation then held by them.

H. The sale of any security to any bank, trust company, building and loan association, insurance company, surety or guaranty company, savings institution, investment company as defined in the Investment Company Act of 1940, small business investment company as defined in the Small Business Investment Act of 1958, as amended, or to any registered dealer actually engaged in buying and selling securities.

I. Provided such sale is made without any public solicitation or advertisements:

(a) the sale of any security by the issuer thereof so long as the total number of security holders of the issuer thereof does not exceed thirty-five (35) persons after taking such sale into account;

(b) the sale or distribution by an issuer or a participating subsidiary of the issuer, if any, of a security under a bona fide thrift, savings, stock purchase, retirement, pension, profit-sharing, option, bonus, appreciation right, incentive, or similar written compensation plan or written compensation contract established by the issuer or its subsidiary for the benefit of employees, directors, general partners, managers, or officers of the issuer or subsidiary, for the benefit of its trustees if the issuer or subsidiary is a business trust, or for the benefit of consultants or advisors who provide to the issuer or subsidiary bona fide services unrelated to the offer or sale of securities in a capital-raising transaction; or

(c) the sale by an issuer of its securities during the period of twelve (12) months ending with the date of the sale in question to not more than fifteen (15) persons (excluding, in determining such fifteen (15) persons, purchasers of securities in transactions exempt under other provisions of this Section 5, purchasers of securities exempt under Section 6 hereof and purchasers of securities which are part of an offering registered under Section 7 hereof), provided such persons purchased such securities for their own account and not for distribution.

J. Wherein the securities disposed of consist exclusively of notes or bonds secured by mortgage or vendor's lien upon real estate or tangible personal property, and the entire mortgage is sold or transferred with all of the notes or bonds secured thereby in a single transaction.

K. Any security or membership issued by a corporation or association, organized exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any stockholder, shareholder, or individual members, and where no commission or remuneration is paid or given or is to be paid or given in connection with the disposition thereof.

L. The sale by the issuer itself, or by a registered dealer, of any security issued or guaranteed by any bank organized and subject to regulation under the laws of the United States or under the laws of any State or territory of the United States, or any insular possession thereof, or by any savings and loan association organized

and subject to regulation under the laws of this State, or the sale by the issuer itself of any security issued by any federal savings and loan association.

M. The sale by the issuer itself, or by a registered dealer, of any security either issued or guaranteed by the United States or by any territory or insular possession thereof, or by the District of Columbia, or by any state of the United States, or political subdivision thereof (including but not limited to any county, city, municipal corporation, district, or authority), or by any public or governmental agency or instrumentality of any of the foregoing.

N. The sale and issuance of any securities issued by any farmers' cooperative marketing association organized under Chapter 52, Agriculture Code, or the predecessor of that law (Article 5737 et seq., Revised Statutes); the sale and issuance of any securities issued by any mutual loan corporation organized under Chapter 54, Agriculture Code, or the predecessor of that law (Article 2500 et seq., Revised Statutes); the sale and issuance of any equity securities issued by any cooperative association organized under the Cooperative Association Act, as amended (Article 1396-50.01, Vernon's Texas Civil Statutes); and the sale of any securities issued by any farmers' cooperative society organized under Chapter 51, Agriculture Code, or the predecessor of that law (Article 2514 et seq., Revised Statutes). Provided, however, this exemption shall not be applicable to agents of any farmers' cooperative marketing association, mutual loan corporation, cooperative association, or farmers' cooperative society when the sale of such securities is made to non-members, or when the sale of such securities is made to members or non-members and a commission is paid or contracted to be paid to the said agents.

O. The sale by a registered dealer of outstanding securities provided that:

(1) Such securities form no part of an unsold allotment to or subscription by such dealer as a participant in the distribution of such securities by the issuer thereof; and

(2) Securities of the same class, of the same issuer, are outstanding in the hands of the public; and

(3) Such securities are offered for sale, in good faith, at prices reasonably related to the current market price of such securities at the time of such sale; and

(4) No part of the proceeds of such sale are paid directly or indirectly to the issuer of such securities; and

(5) Such sale is not directly or indirectly for the purposes of providing or furthering any scheme to violate or evade any provision of this Act; and

(6) The right to sell or resell such securities has not been enjoined by any court of competent jurisdiction in this State by proceedings instituted by an officer or agency of this State charged with enforcement of this Act; and

(7) The right to sell such securities has not been revoked or suspended by the commissioner under any of the provisions of this Act, or, if so, revocation or suspension is not in force and effect; and

(8) At the time of such sale, the issuer of such securities shall be a going concern actually engaged in business and shall then be neither in an organization stage nor in receivership or bankruptcy; and

(9) Such securities or other securities of the issuer of the same class have been registered by qualification, notification or coordination under Section 7 of this Act; or at the time of such sale at least the following information about the issuer shall appear in a recognized securities manual or in a statement, in form and extent acceptable to the commissioner, filed with the commissioner by the issuer or by a registered dealer:

(a) A statement of the issuer's principal business;

(b) A balance sheet as of a date within eighteen (18) months of the date of such sale; and

(c) Profit and loss statements and a record of the dividends paid, if any, for a period of not less than three (3) years prior to the date of such balance sheet or for the period of existence of the issuer, if such period of existence is less than three (3) years.

The term "recognized securities manual" means a nationally distributed manual of securities that is approved for use hereunder by the Board.

The Commissioner may issue a stop order or by order prohibit, revoke or suspend the exemption under this Subsection O with respect to any security if the Commissioner has reasonable cause to believe that the plan of business of the issuer of such security, the security, or the sale thereof would tend to work a fraud or deceit upon any purchaser or purchasers thereof, such order to be subject to review in the manner provided by Section 24 of this Act. Notice of any court injunction enjoining the sale, or resale, of any such

security, or of an order revoking or suspending the exemption under this subdivision with respect to any security, shall be delivered or shall be mailed by certified or registered mail with return receipt requested, to any dealers believed to be selling, or offering for sale, securities of the type referred to in the notice; and the prohibitions of (6) and (7) above of this Subsection O shall be inapplicable to any dealer until the dealer has received actual notice from the commissioner of such revocation or suspension.

The Board may for cause shown revoke or suspend the recognition hereunder of any manuals previously approved under this Subsection but no such action may be taken unless upon notice and opportunity for hearing before the Board or a hearings officer as now or hereafter required by law. A judgment sustaining the Board in the action complained of shall not bar after one year an application by the plaintiff for approval of its manual or manuals hereunder, nor shall a judgment in favor of the plaintiff prevent the Board from thereafter revoking such recognition for any proper cause which may thereafter accrue or be discovered.

P. The execution by a dealer of an unsolicited order for the purchase of securities, where the initial offering of such securities has been completed and provided that the dealer acts solely as an agent for the purchaser, has no direct or indirect interest in the sale or distribution of the security ordered, and receives no commission, profit, or other compensation from any source other than the purchaser.

Q. The sales of interests in and under oil, gas or mining leases, fees or titles, or contracts relating thereto, where (1) the total number of sales by any one owner of interests, whether whole, fractional, segregated or undivided in any single oil, gas or mineral lease, fee or title, or contract relating thereto, shall not exceed thirty-five (35) within a period of twelve (12) consecutive months and (2) no use is made of advertisement or public solicitation; provided, however, if such sale or sales are made by an agent for such owner or owners, such agent shall be licensed pursuant to this Act. No oil, gas or mineral unitization or pooling agreement shall be deemed a sale under this Act.

R. The sale by the issuer itself, or by a subsidiary of such issuer, of any securities which would be exempt if sold by a registered dealer under Section 6 (other than Section 6E) of this Act.

S. The sale by or through a registered dealer of any option if at the time of the sale of the option:

(1) the performance of the terms of the option is guaranteed by any broker-dealer registered under the federal Securities Exchange Act of 1934, as amended, which guaranty and broker-dealer are in compliance with such requirements or regulations as may be approved or adopted by the board;

(2) the option is not sold by or for the benefit of the issuer of the security which may be purchased or sold upon exercise of the option;

(3) the security which may be purchased or sold upon exercise of the option is either (a) exempted under Subsection F of Section 6 of this Act or (b) quoted on the NASDAQ stock market and meets the requirements of Paragraphs (1), (6), (7), and (8) of Subsection O of Section 5 of this Act; and

(4) such sale is not directly or indirectly for the purposes of providing or furthering any scheme to violate or evade any provisions of this Act.

For purposes of this subsection the term "option" shall mean and include any put, call, straddle, or other option or privilege of buying or selling a specified number of securities at a specified price from or to another person, without being bound to do so, on or prior to a specified date, but such term shall not include any option or privilege which by its terms may terminate prior to such specified date upon the occurrence of a specified event.

T. Such other transactions or conditions as the board by rule, regulation, or order may define or prescribe, conditionally or unconditionally.

U. The issuance or transfer of securities by the issuer of its securities to a corporation or association, organized exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes and not for pecuniary profit, only if:

(a) the corporation or association does not provide anything of value for the securities other than, in the case of any security that is an option, payment of the exercise price of the option to acquire the securities at a price not to exceed the fair market value of the underlying securities on the date the option was granted;

(b) the issuance or transfer of securities is not made for the purpose of raising capital for the issuer;

(c) no commission or other form of consideration is paid or

provided to a third party with respect to the issuance or transfer; and

(d) the issuance or transfer is not directly or indirectly for the purpose of providing or furthering a scheme in violation of or to evade this Act.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 5. Amended by Acts 1959, 56th Leg., p. 147, ch. 88, Sec. 1; Acts 1963, 58th Leg., p. 473, ch. 170, Sec. 1 to 6.
Amended by Acts 1975, 64th Leg., p. 199, ch. 78, Sec. 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 865, ch. 327, Sec. 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 349, ch. 160, Sec. 2, eff. May 15, 1979; Acts 1981, 67th Leg., p. 3198, ch. 839, Sec. 1, eff. June 17, 1981; Acts 1983, 68th Leg., p. 2688, ch. 465, Sec. 1, eff. Sept. 1, 1983; Acts 1989, 71st Leg., ch. 733, Sec. 2, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 228, Sec. 4, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 561, Sec. 1, eff. June 11, 2001; Acts 2001, 77th Leg., ch. 663, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1091, Sec. 2.02, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-6. EXEMPT SECURITIES. Except as hereinafter in this Act expressly provided, the provisions of this Act shall not apply to any of the following securities when offered for sale, or sold, or dealt in by a registered dealer or agent of a registered dealer:

A to C. Deleted by Acts 1979, 66th Leg., p. 354, ch. 160, Sec. 3, eff. May 15, 1979.

D. Any security issued or guaranteed either as to principal, interest, or dividend, by a corporation owning or operating a railroad or any other public service utility; provided, that such corporation is subject to regulation or supervision either as to its rates and charges or as to the issue of its own securities by the Railroad Commission of Texas, or by a public commission, agency, board or officers of the Government of the United States, or of any territory or insular possession thereof, or of any state or municipal corporation, or of the District of Columbia, or of the Dominion of Canada, or any province thereof; also equipment trust certificates or equipment notes or bonds based on chattel mortgages, leases or agreements for conditional sale of cars, motive power or other

rolling stock mortgages, leased or sold to or furnished for the use of or upon a railroad or other public service utility corporation, provided that such corporation is subject to regulation or supervision as above; or equipment trust certificates, or equipment notes or bonds where the ownership or title of such equipment is pledged or retained in accordance with the provisions of the laws of the United States, or of any state, territory or insular possession thereof, or of the District of Columbia, or the Dominion of Canada, or any province thereof, to secure the payment of such equipment trust certificates, bonds or notes.

E. Any security issued and sold by a domestic corporation without capital stock and not organized and not engaged in business for profit.

F. Securities which at the time of sale have been fully listed upon the American Stock Exchange, the Boston Stock Exchange, the Chicago Stock Exchange or the New York Stock Exchange, have been designated or approved for designation on notice of issuance on the national market system of the NASDAQ stock market, or have been fully listed upon any recognized and responsible stock exchange approved by the Commissioner as hereinafter in this section provided, and also all securities senior to, or if of the same issues, upon a parity with, any securities so listed or designated or represented by subscription rights which have been so listed or designated, or evidence of indebtedness guaranteed by any company, any stock of which is so listed or designated, such securities to be exempt only so long as the exchange upon which such securities are so listed remains approved under the provisions of this Section. Application for approval by the Commissioner may be made by any organized stock exchange in such manner and upon such forms as may be prescribed by the Commissioner, but no approval of any exchange shall be given unless the facts and data supplied with the application shall be found to establish:

(1) That the requirements for the listing of securities upon the exchange so seeking approval are such as to effect reasonable protection to the public;

(2) That the governing constitution, by-laws or regulations of such exchange shall require:

1st: An adequate examination into the affairs of the issuer of the securities which are to be listed before permitting trading therein;

2nd: That the issuer of such securities, so long as they be listed, shall periodically prepare, make public and furnish promptly to the exchange, appropriate financial, income, and profit and loss statements;

3rd: Securities listed and traded in on such exchange to be restricted to those of ascertained, sound asset or income value;

4th: A reasonable surveillance of its members, including a requirement for periodical financial statements and a determination of the financial responsibility of its members and the right and obligation in the governing body of such exchange to suspend or expel any member found to be financially embarrassed or irresponsible or found to have been guilty of misconduct in his business dealings, or conduct prejudicial of the rights and interests of his customers;

The approval of any such exchange by the Commissioner shall be made only after a reasonable investigation and hearing, and shall be by a written order of approval upon a finding of fact substantially in accordance with the requirements hereinabove provided. The Commissioner, upon ten (10) days notice and hearing, shall have power at any time to withdraw approval theretofore granted by him to any such stock exchange which does not at the time of hearing meet the standards of approval under this Act, and thereupon securities so listed upon such exchange shall be no longer entitled to the benefit of such exemption except upon the further order of said Commissioner approving such exchange.

By the same procedure set out in the preceding paragraph with respect to exchanges approved by the Commissioner, the Commissioner may suspend the exempt status of any trading system exempted by the Legislature on or after January 1, 1989, if that system does not at the time of hearing meet the applicable standards for approval of exchanges prescribed by this Act. The suspension has the same effect as the removal of approval of an exchange. The suspension remains in effect until the Commissioner by order determines that the trading system has corrected the deficiency or deficiencies on which the suspension was based and maintains standards and procedures that provide reasonable protection to the public.

H. Any commercial paper that arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and that evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper that is likewise limited, or any guarantee

of such paper or of any such renewal.

I. Notes, bonds, or other evidence of indebtedness or certificates of ownership which are equally and proportionately secured without reference of priority of one over another, and which, by the terms of the instrument creating the lien, shall continue to be so secured by the deposit with a trustee of recognized responsibility approved by the Commissioner of any of the securities specified in Subsection M of Section 5 or Subsection D of Section 6; such deposited securities, if of the classes described in Subsection M of Section 5, having an aggregate par value of not less than one hundred and ten per cent (110%) of the par value of the securities thereby secured, and if of class specified in Subsection D of Section 6, having an aggregate par value of not less than one hundred and twenty five per cent (125%) of the par value of the securities thereby secured.

J. Notes, bonds or other evidence of indebtedness of religious, charitable or benevolent corporations.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 6.
Amended by Acts 1979, 66th Leg., p. 354, ch. 160, Sec. 3, eff. May 15, 1979; Acts 1989, 71st Leg., ch. 40, Sec. 1, eff. April 26, 1989; Acts 1989, 71st Leg., ch. 733, Sec. 3, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 1091, Sec. 2.03, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-7. PERMIT OR REGISTRATION FOR ISSUE BY COMMISSIONER; INFORMATION FOR ISSUANCE OF PERMIT OR REGISTRATION. A. Qualification of Securities. (1) No dealer or agent shall sell or offer for sale any securities issued after September 6, 1955, except those which shall have been registered by Notification under subsection B or by Coordination under subsection C of this Section 7 and except those which come within the classes enumerated in Section 5 or Section 6 of this Act, until the issuer of such securities or a dealer registered under the provisions of this Act shall have been granted a permit by the Commissioner; and no such permit shall be granted by the Commissioner until the issuer of such securities or a dealer registered under the provisions of this Act shall have filed with the Commissioner a sworn statement verified under the oath of an executive officer or partner of the issuer, or of such registered

dealer, and attested by the secretary or partner thereof, setting forth the following information:

a. The names, residences and post office addresses of the officers and directors of the company;

b. The location of its principal office and of all branch offices in this State, if any;

c. A copy of its articles of incorporation or partnership or association, as the case may be, and of any amendments thereto, if any; if a corporation, a copy of all minutes of any proceedings of its directors, stockholders or members relating to or affecting the issue of said security; if a corporation, a copy of its bylaws and of any amendments thereto; if a trustee, a copy of all instruments by which the trust is created and in which it is accepted, acknowledged or declared;

d. A statement showing the amount of capital stock, if any, and if no capital stock, the amount of capital of the issuer that is contemplated to be employed; the number of shares into which such stock is divided, or if not divided into shares of stock, what division is to be made or is contemplated; the par value of each share, or if no par stock, the price at which such security is proposed to be sold; the promotional fees or commissions to be paid for the sale of same, including any and all compensations of every nature that are in any way to be allowed the promoters or allowed for the sale of same; and how such compensation is to be paid, whether in cash, securities, service or otherwise, or partly of either or both; also, the amount of cash to be paid, or securities to be issued, given, transferred or sold to promoters for promotion or organization services and expenses, and the amount of promotion or organization services and expenses which will be assumed or in any way paid by the issuer;

e. Copies of certificates of the stock and all other securities to be sold, or offered for sale, together with application blanks therefor; a copy of any contract it proposes to make concerning such security; a copy of any prospectus or advertisement or other description of security prepared by or for it for distribution or publication;

f. 1. A detailed statement prepared in accordance with generally accepted auditing standards and procedures and generally accepted accounting principles, showing all the assets and all the liabilities of the issuer, said statement to reflect the financial condition of

the issuer on a day not more than ninety (90) days prior to the date such statement is filed. Such statement shall list all assets in detail and shall show how the value of such assets was determined, that is, whether the value set forth in said statement represents the actual cost in money of such assets, or whether such value represents their present market value, or some other value than the actual cost in money, and shall show the present actual value of said assets; also, whether the value set forth in the statement is greater or less than the actual cost value in money and greater or less than the present market value of such assets. If any of the assets consist of real estate, then said statement shall show the amount for which said real estate is rendered for State and county taxes, or assessed for taxes. If any such assets listed shall consist of anything other than cash and real estate, same shall be set out in detail so as to give the Commissioner the fullest possible information concerning same, and the Commissioner shall have the power to require the filing of such additional information as the Commissioner may deem necessary to determine whether or not the true value of said assets are reflected in the statement filed. Should any of the assets listed in said statement be subject to any repurchase agreement, or any other agreement of like character, by the terms of which the absolute ownership of, or title to said assets is qualified or limited in any way, then the terms and conditions of said agreement by which the absolute ownership of, or title to said assets is qualified or limited, as well as the amount and character of the assets subject thereto shall be fully stated. Said statement shall list all current liabilities, that is, all liabilities which will mature and become due within one year from the date of such application, and shall list separately from such current liabilities, all other liabilities, contingent or otherwise, showing the amount of those which are secured by mortgage or otherwise, the assets of the issuer which are subject to such mortgage, and the dates of maturity of any such mortgage indebtedness. Such application shall also include a detailed income statement, prepared in accordance with generally accepted auditing standards and procedures and generally accepted accounting principles, which shall cover the last three (3) years' operations of the issuer, if such issuer has been in operation for three (3) years, but if not, said income statement shall cover the time that said issuer has been operating. If said issuer has not been operating, but is taking over a concern of any kind which has

been previously operating, an income statement showing the operations of the concern thus taken over for a period of the last three (3) years next preceding the taking over of said concern shall be included in said statement; said income statement shall clearly reflect the amount of net income or net loss incurred during each of the years shown.

2. The financial statements required in subparagraph (1) of this paragraph for a small business issuer, as defined by Board rule, may be reviewed by an independent certified public accountant in accordance with the Statements on Standards for Accounting and Review Services promulgated by the American Institute of Certified Public Accountants in lieu of being audited and certified, provided that the small business issuer otherwise meets all of the requirements that the Board by rule, regulation, or order may prescribe, conditionally or unconditionally.

B. Registration by Notification.

(1) Securities may be registered by notification under this subsection B if they are issued by an issuer which has been in continuous operation for not less than three (3) years and which has shown, during the period of not less than three (3) years next prior to the date of registration under this section, average annual net earnings after deducting all prior charges including income taxes except charges upon securities to be retired out of the proceeds of sale, as follows:

a. In the case of interest-bearing securities, not less than one and one-half times the annual interest charges on such securities and on all other outstanding interest-bearing securities of equal rank;

b. In the case of securities having a specified dividend rate, not less than one and one-half times the annual dividend requirements on such securities and on all outstanding securities of equal rank;

c. In the case of securities wherein no dividend rate is specified, not less than five percent (5%) on all outstanding securities of equal rank, together with the amount of such securities then offered for sale, based upon the maximum price at which such securities are to be offered for sale. The ownership by an issuer of more than fifty percent (50%) of the outstanding voting stock of a corporation shall be construed as the proportionate ownership of such corporation and shall permit the inclusion of the earnings of such corporation applicable to the payment of dividends upon the stock so owned in the earnings of the issuer of the securities being

registered by notification.

(2) Securities entitled to registration by notification shall be registered by the filing with the Commissioner by the issuer or by a registered dealer of a registration statement as required by paragraph a of this subdivision, and completion of the procedures outlined in paragraph b of this subdivision:

a. A registration statement in a form prescribed by the Commissioner signed by the applicant filing such statement and containing the following information:

1. Name and business address of main office of issuer and address of issuer's principal office, if any, in this state;

2. Title of securities being registered and total amount of securities to be offered;

3. Price at which securities are to be offered for sale to the public, amount of securities to be offered in this state, and amount of registration fee, computed as hereinafter provided;

4. A brief statement of the facts which show that the securities are entitled to be registered by notification;

5. Name and business address of the applicant filing the statement;

6. Financial statements to include a certified income statement, a certified balance sheet, and a certified statement of stockholders' equity, each to be for a period of not less than three (3) years prior to the date of registration. These financial statements shall reflect the financial condition of the issuer as of a date not more than ninety (90) days prior to the date of such filing with the Commissioner;

7. A copy of the prospectus, if any, describing such securities;

8. Filing of a consent to service of process conforming to the requirements of Section 8 of this Act, if the issuer is registering the securities and is not a resident of this state or is not incorporated under the laws of this state.

b. Such filing with the Commissioner shall constitute the registration of securities by notification and such registration shall become effective five (5) days after receipt of the registration statement and all accompanying papers by the Commissioner; provided that the Commissioner may in his discretion waive or reduce the five (5) days waiting period in any case where he finds no injury to the public will result therefrom. Upon such registration by notification, securities may be sold in this state by

registered dealers and registered salesmen. Upon the receipt of a registration statement, prospectus, if any, payment of the filing fee and registration fee, and, if required, a consent to service of process, the Commissioner shall record the registration by notification of the securities described. Such registration shall be effective for a period of one (1) year and may be renewed for additional periods of one (1) year, if the securities are entitled to registration under this subsection at the time of renewal, by a new filing under this section together with the payment of the renewal fee of Ten Dollars ($10.00).

c. If at any time, before or after registration of securities under this section, in the opinion of the Commissioner the information in a registration statement filed with him is insufficient to establish the fact that the securities described therein are, or were, entitled to registration by notification under this section, or that the registration information contains, or contained, false, misleading or fraudulent facts, he may order the applicant who filed such statement to cease and desist from selling, or offering for sale, such securities registered, or proposed to be registered, under provisions of this section, until there is filed with the Commissioner such further information as may in his judgment be necessary to establish the fact that such securities are, or were, entitled to registration under this section. The provisions of Section 24 of this Act as to hearing shall be applicable to an order issued hereunder.

C. Registration by Coordination.

(1) Any security for which a registration statement has been filed under the federal Securities Act of 1933, as amended, in connection with the same offering, may be registered by coordination. A registration statement under this section shall be filed with the Commissioner by the issuer or any registered dealer, shall contain the following information, and shall be accompanied by the following documents:

a. One copy of the prospectus filed under the Securities Act of 1933 together with all amendments thereto;

b. The amount of securities to be offered in this state;

c. The states in which a registration statement or similar document in connection with the offering has been or is expected to be filed;

d. Any adverse order, judgment or decree previously entered in

connection with the offering by any court or the Securities and Exchange Commission;

e. A copy of the articles of incorporation and by-laws (or their substantial equivalents) currently in effect, a copy of any agreements with or among underwriters, a copy of any indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;

f. If the Commissioner requests any other information, or copies of any other documents, filed under the Federal Securities Act of 1933;

g. An undertaking to forward promptly all amendments to the federal registration statement, other than an amendment which merely delays the effective date; and

h. If the registration statement is filed by the issuer, or by a dealer who will offer such securities for sale as the agent of the issuer, and the issuer is not a resident of this state or is not incorporated under the laws of this state, a consent to service of process conforming to the requirements of Section 8.

(2) Upon receipt of a registration statement under this section the Commissioner shall examine such registration statement and he may enter an order denying registration of the securities described therein if he finds that the registrant has not proven the proposed plan of business of the issuer to be fair, just and equitable, and also that any consideration paid, or to be paid, for such securities by promoters is fair, just and equitable when such consideration for such securities is less than the proposed offering price to the public, and that the securities which it proposes to issue and the methods to be used by it in issuing and disposing of the same will be such as will not work a fraud upon the purchaser thereof. If the Commissioner enters an order denying the registration of securities under this section, he shall notify the registrant immediately. The provisions of Section 24 of this Act as to hearing shall be applicable to an order issued hereunder. A registration statement under this section automatically becomes effective at the moment the federal registration statement becomes effective if all the following conditions are satisfied:

a. No order has been entered by the Commissioner denying registration of the securities;

b. The registration statement has been on file with the Commissioner for at least ten (10) days; and

c. A statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two full business days or such shorter period as the Commissioner expressly permits and the offering is made within those limitations. The registrant shall promptly notify the Commissioner by telephone or telegram of the date and time when the federal registration statement became effective and the content of the price amendment, if any, and shall promptly file a post-effective amendment containing the information and documents in the price amendment. "Price amendment" means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price.

Upon failure to receive the required notification and post-effective amendment with respect to the price amendment, the Commissioner may enter a stop order, without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with this subsection, if he promptly notifies the registrant by telephone or telegram (and promptly confirms by letter or telegram when he notifies by telephone) of the issuance of the order. If the registrant proves compliance with the requirements of this subsection as to notice and post-effective amendment, the stop order is void as of the time of its entry. The Commissioner may waive either or both of the conditions specified in clauses b and c. If the federal registration statement becomes effective before all these conditions are satisfied and they are not waived, the registration statement automatically becomes effective as soon as all the conditions are satisfied. If the registrant advises the Commissioner of the date when the federal registration statement is expected to become effective the Commissioner shall promptly advise the registrant by telephone or telegram, at the registrant's expense, whether all the conditions are satisfied and whether he then contemplates the issuance of an order denying registration; but this advice by the Commissioner does not preclude the issuance of such an order at any time.

(3) Registration of securities under this subsection shall be effective for the following periods:

a. The initial registration of securities of an open-end investment company, as defined in the Investment Company Act of 1940, shall be effective until two (2) months after the end of the issuer's

fiscal year. After the initial registration, the issuer or its agent may renew the registration by submitting the appropriate registration forms and renewal fees within two (2) months after the end of the issuer's fiscal year.

b. The registration of securities of a unit investment trust, as defined in the Investment Company Act of 1940, shall be effective until one (1) year from the date of effectiveness granted by the federal Securities and Exchange Commission.

c. Any other registration of securities shall be effective for a period of one (1) year from the date the registration is declared effective by the Commissioner.

(4) Registrations of securities under subdivision (3) may be renewed for additional periods of one (1) year if the appropriate registration forms and renewal fees are received prior to the expiration date. The same standards of fairness, justice and equity as prescribed by this subsection for original approval will apply to the renewal of all registrations.

D. Termination Of Fiscal Year; Certification Of Statements.

If the fiscal year of the issuer terminated on a date more than 90 days prior to the date of the filing, then the financial statements required in Subsections A and B of this Section 7, which must be as of a date not more than 90 days prior to the date of filing, need not be certified by an independent certified public or independent public accountant if there are filed in addition thereto financial statements containing the information required by the applicable subdivision which are certified by an independent certified public or independent public accountant as of the end of the preceding fiscal year of the issuer.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 7. Amended by Acts 1963, 58th Leg., p. 473, ch. 170, Sec. 7, 12a; Acts 1977, 65th Leg., p. 870, ch. 327, Sec. 2 to 4, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 356, ch. 160, Sec. 4, eff. May 15, 1979.
Subsec. A(1) amended by Acts 1977, 65th Leg., p. 870, ch. 327, Sec. 2, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 356, ch. 160, Sec. 4, eff. May 15, 1979; Subsec. A amended by Acts 1995, 74th Leg., ch. 228, Sec. 5, eff. Sept. 1, 1995; Subsec. A amended by Acts 2001, 77th Leg., ch. 1091, Sec. 2.04, eff. Sept. 1, 2001.
Subsec. B(2) amended by Acts 1977, 65th Leg., p. 871, ch. 327, Sec. 3, eff. Aug. 29, 1977; Subsec. B amended by Acts 1995, 74th Leg.,

ch. 228, Sec. 5, eff. Sept. 1, 1995.
Subsec. C(1) amended by Acts 1977, 65th Leg., p. 873, ch. 327, Sec. 4, eff. Aug. 29, 1977; Subsec. C amended by Acts 1995, 74th Leg., ch. 228, Sec. 5, eff. Sept. 1, 1995.

Text of article effective until January 1, 2022

Art. 581-8. CONSENT TO SERVICE. Unless the Board by rule otherwise specifies, any application filed or notice filing submitted by an issuer, or by a dealer or investment adviser who is organized under the laws of any other state, territory, or government, or domiciled in any other state than Texas, shall contain a provision that appoints the Commissioner the issuer's, dealer's, or investment adviser's true and lawful attorney upon whom all process may be served in any action or proceedings against such issuer, dealer, or investment adviser arising out of any transaction subject to this Act with the same effect as if such issuer, dealer, or investment adviser were organized or created under the laws of this state and had been lawfully served with process therein. The provision shall be duly executed by an authorized agent of the issuer, dealer, or investment adviser. Whenever the Commissioner shall have been served with any process as is herein provided, it shall be the duty of the Commissioner to forward same by United States mail to the last known address of such issuer, dealer, or investment adviser.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 8.
Amended by Acts 1995, 74th Leg., ch. 228, Sec. 6, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1091, Sec. 2.05, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-9. PROTECTION TO PURCHASERS OF SECURITIES. A. In the event any company, as defined herein, shall sell, or offer for sale, any securities, as defined in this Act, the Commissioner, if he deems it necessary to protect the interests of prospective purchasers of such securities, may require the company so offering such securities for sale to deposit all, or any part, of the proposed securities, or all, or any part, of the moneys and funds received from the sale thereof, except such amounts thereof as the Commissioner deems necessary to be used, and not to exceed the amount allowed as

expenses and commissions for the sale of such securities, to be deposited in a trust account in some bank or trust company approved by the Commissioner and doing business in the State of Texas, until such time as such proposed company or existing company shall have sold a specified monetary amount or number of shares of such securities as in his opinion will reasonably assure protection of the public. When the Commissioner makes a written finding that the terms of the escrow agreement have been fully met, the bank or trust company shall transfer such funds to the proposed or existing corporation and its executive officers for the purpose of permitting it to use such securities or money in its business. In the event such proposed or existing company shall fail within two (2) years to sell the minimum amount of capital necessary under the escrow agreement, the Commissioner may authorize, and the bank or trust company shall return to the subscribers, upon receipt of such authority from the Commissioner, that portion of the funds which were deposited or escrowed under such escrow agreement; provided, however, that any securities held by such bank or trust company under the escrow agreement shall be returned to the corporation only after the bank or trust company has received evidence of cancellation thereof from the issuer. At the time of making the deposits, as herein provided for, the dealer or issuer shall furnish to such bank or trust company, and to the Commissioner, the names of the persons purchasing or subscribing for such securities, and the amount of money paid in by each.

B. The total expenses for marketing securities, including all commissions for the sale of such securities, and all other incidental selling expenses, shall not in the aggregate exceed twenty per cent (20%) of the price at which the stock or other securities of any proposed or existing company are to be sold, or offered for sale, to the public of this State; and this amount may be limited by the Commissioner to a less percentage which is in his opinion fair, just and equitable under the facts of the particular case.

C. In connection with any permit to sell securities the Commissioner shall require all offers for sale of said securities to be made through and by prospectus which fairly discloses the material facts about the plan of finance and business. Said prospectus shall be filed with and approved by the Commissioner; provided, however, if the applicant files a prospectus or offering circular with the Commissioner which is also filed with the S.E.C. under the Securities

Act of 1933, as amended, or the regulations thereunder, this subsection shall in all respects be satisfied. Failure to comply with this requirement shall be treated as a violation of this Act, subjecting the parties responsible to the consequences thereof as provided herein.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 9. Amended by Acts 1963, 58th Leg., p. 473, ch. 170, Sec. 8.

Text of article effective until January 1, 2022

Art. 581-10. EXAMINATION OF APPLICATION; PERMIT. A. Commissioner to Examine Application; Grant or Deny.

Upon the filing of an application for qualifying securities under Section 7A, it shall be the duty of the Commissioner to examine the same and the papers and documents filed therewith. If he finds that the proposed plan of business of the applicant appears to be fair, just and equitable, and also that any consideration paid, or to be paid, for such securities by promoters is fair, just and equitable when such consideration for such securities is less than the proposed offering price to the public, and that the securities which it proposes to issue and the methods to be used by it in issuing and disposing of the same are not such as will work a fraud upon the purchaser thereof, the Commissioner shall issue to the applicant a permit authorizing it to issue and dispose of such securities. Should the Commissioner find that the proposed plan of business of the applicant appears to be unfair, unjust or inequitable, he shall deny the application for a permit and notify the applicant in writing of his decision.

B. Permit, Form and Contents; Term and Renewals.

Every permit qualifying securities shall be in such form as the Commissioner may prescribe, and shall recite in bold type that the issuance thereof is permissive only, and does not constitute a recommendation or endorsement of the securities permitted to be issued. Such permit shall be for a period of one (1) year; provided, however, that if the securities authorized to be sold are not sold within the term provided by the permit, a renewal application may be filed with the Commissioner. Such renewal application shall recite the total number of shares sold in Texas, the total number of shares sold elsewhere, total number of shares

outstanding, and shall contain a detailed balance sheet, an operating statement, and such other information as the Commissioner may require. The Commissioner shall examine applications for renewal by the same standards as stated in subsection A of this section for original applications and upon that basis issue or deny renewal permits; such permits, if issued, shall be for a period of one (1) year and be in such form as the Commissioner may prescribe. The Commissioner shall charge such fees for the issuance of permits to sell securities as are hereinafter provided. No permit instrument need be issued if securities are registered under Sections 7B or C of this Act, but the Commissioner will examine the registration papers to determine their sufficiency under the requirements there stated.

C. Use of Permit to Aid Sale of Securities Prohibited. It shall be unlawful for any dealer, issuer, or agent to use a permit authorizing the issuance of securities in connection with any sale or effort to sell any security.

D. Commissioner's Discretion. In applying the standards of this Act, the Commissioner may waive or relax any restriction or requirement in the Board's rules that, in his opinion, is unnecessary for the protection of investors in a particular case.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 10.
Subsec. C amended by Acts 2001, 77th Leg., ch. 1091, Sec. 2.06, eff. Sept. 1, 2001.
Subsec. D added by Acts 1983, 68th Leg., p. 2716, ch. 465, Sec. 4, eff. Sept. 1, 1983.

Text of article effective until January 1, 2022

Art. 581-10-1. PURPOSES. A. This Act may be construed and implemented to effectuate its general purpose to maximize coordination with federal and other states' law and administration, particularly with respect to:

(1) procedure, reports, and forms; and

(2) exemptions.

B. This Act may be construed and implemented to effectuate its general purposes to protect investors and consistent with that purpose, to encourage capital formation, job formation, and free and competitive securities markets and to minimize regulatory burdens on issuers and persons subject to this Act, especially small businesses.

Added by Acts 1983, 68th Leg., p. 2716, ch. 465, Sec. 3, eff. Sept. 1, 1983.

Text of article effective until January 1, 2022

Art. 581-11. PAPERS FILED WITH COMMISSIONER; RECORDS OPEN TO INSPECTION. All information, papers, documents, instruments and affidavits required by this Act to be filed with the Commissioner shall be deemed public records of this state, and shall be open to the inspection and examination of any purchaser or prospective purchaser of said securities or the agent or representative of such purchaser or prospective purchaser; and the Commissioner shall give out to any such purchaser or prospective purchaser or his agent or representative any information required to be filed with him under the provisions of this section, or any other part of this Act, and shall furnish any such purchaser, prospective purchaser, or his agent or representative requesting it, certified copies of any and all papers, documents, instruments and affidavits filed with him under the provisions of this section or of any part of this Act. The Commissioner shall maintain a record, which shall be open for public inspection, upon which shall be entered the names and addresses of all registered dealers, registered agents, registered investment advisers, registered investment adviser representatives, and persons who have submitted a notice filing under this Act, and all orders of the Commissioner denying, suspending or revoking registration. This section does not affect information considered confidential by Section 13-1 or 28 of this Act or other law.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 11.
Amended by Acts 1983, 68th Leg., p. 2688, ch. 465, Sec. 1, eff. Sept. 1, 1983; Acts 2001, 77th Leg., ch. 1091, Sec. 2.07, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-12. REGISTRATION OF PERSONS SELLING SECURITIES OR RENDERING INVESTMENT ADVICE. A. Except as provided in Section 5 of this Act, no person, firm, corporation or dealer shall, directly or through agents, offer for sale, sell or make a sale of any securities in this state without first being registered as in this Act provided.

No agent shall, in behalf of any dealer, sell, offer for sale, or make sale of any securities within the state unless registered as an agent for that particular registered dealer under the provisions of this Act.

B. Except as provided by Section 5 of this Act, a person may not, directly or through an investment adviser representative, render services as an investment adviser in this state unless the person is registered under this Act, submits a notice filing as provided by Section 12-1 of this Act, or is otherwise exempt under this Act. A person may not act or render services as an investment adviser representative for a certain investment adviser in this state unless the person is registered or submits a notice filing as an investment adviser representative for that particular investment adviser as provided in Section 18 or 12-1 of this Act.

C. The Board may adopt rules and regulations exempting certain classes of persons from the dealer, agent, investment adviser, and investment adviser representative registration requirements, or providing conditional exemptions from registration, if the Board determines that such rules and regulations are consistent with the purposes of this Act.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 12.
Amended by Acts 1995, 74th Leg., ch. 228, Sec. 7, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1091, Sec. 2.08, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-12-1. NOTICE FILING FOR FEDERAL COVERED INVESTMENT ADVISERS AND REPRESENTATIVES OF FEDERAL COVERED INVESTMENT ADVISERS. A. This section does not apply to an investment adviser or investment adviser representative that is exempt from registration under this Act or Board rule.

B. The Board by rule shall authorize a federal covered investment adviser or a representative of a federal covered investment adviser to engage in rendering services as an investment adviser in this state on submission to and receipt by the Commissioner of:

(1) a notice filing on the form and containing the information prescribed by the Commissioner and, if applicable, a consent to service appointing the Commissioner as the adviser's agent for

service of process as required by Section 8 of this Act; and

(2) a fee in the amount determined under Sections 35 and 41 of this Act.

C. After the notice filing fee is paid and all the requirements for a notice filing under Subsection B of this section are met, a notice filing submitted under this section takes effect and is valid for the remainder of the calendar year. A federal covered investment adviser or federal covered investment adviser representative may renew a notice filing on or before its expiration date on submission to and receipt by the Commissioner of:

(1) a renewal notice filing; and

(2) a renewal fee in the amount determined under Sections 35 and 41 of this Act.

Added by Acts 2001, 77th Leg., ch. 1091, Sec. 2.09, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-13. METHOD AND CONDITION OF REGISTRATION REQUIRED FOR DEALER, AGENT, INVESTMENT ADVISER, OR INVESTMENT ADVISER REPRESENTATIVE. A. A dealer or investment adviser to be registered must submit a sworn application therefor to the Commissioner, which shall be in such form as the Commissioner may determine and which shall state:

(1) The principal place of business of the applicant wherever situated;

(2) The location of the principal place of business and all branch offices in this state, if any;

(3) The name or style of doing business and the address of the applicant;

(4) The names, residences and the business addresses of all persons interested in the business as principal, officer, director or managing agent, specified as to each his capacity and title; and

(5) The general plan and character of business of such applicant and the length of time during and the places at which the applicant has been engaged in the business.

B. An application filed by a dealer or investment adviser shall also contain such additional information as to the applicant's previous history, record, associations and present financial

condition as may be required by the Commissioner, or as is necessary to enable the Commissioner to determine whether the sale of any securities proposed to be issued or dealt in by such applicant would result in fraud.

C. Each application shall be accompanied by certificates or other evidences satisfactory to the Commissioner establishing the good reputation of the applicant, his directors, officers, copartners or principals.

D. The Commissioner shall require as a condition of registration for all registrations granted after the effective date of this Subsection D that the applicant (and, in the case of a corporation or partnership, the officers, directors or partners to be licensed by the applicant) pass successfully a written examination to determine the applicant's qualifications and competency to engage in the business of dealing in and selling securities as a dealer or agent, or rendering services as an investment adviser or investment adviser representative. This condition may be waived as to any applicant or class of applicants by action of the State Securities Board.

E. Not later than the 30th day after the date a person takes a registration examination under this Act, the Board shall notify the person of the results of the examination. If the examination is graded or reviewed by a testing service:

(1) the Board shall notify the person of the results of the examination not later than the 14th day after the date the Board receives the results from the testing service; and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the Board shall notify the person of the reason for the delay before the 90th day.

F. The Board may require a testing service to notify a person of the results of the person's examination. If requested in writing by a person who fails a registration examination administered under this Act, the Board shall furnish the person with an analysis of the person's performance on the examination.

G. If the applicant is a corporation organized under the laws of any other state or territory or government or shall have its principal place of business therein, it shall accompany the application with a copy of its Articles of Incorporation and all amendments thereto, certified by the proper officer of such state or government or of the corporation, and its regulations and by laws.

H. If a limited partnership, either a copy of its Articles of

Copartnership or a verified statement of the plan of doing business.

I. If an unincorporated association or organization under the laws of any other state, territory or government, or having its principal place of business therein, a copy of its Articles of Association, Trust Agreement or other form of organization.

J. It shall be the duty of the Commissioner to prepare a proper form to be used by the applicant under the terms of this Section, and the Commissioner shall furnish copies thereof to all persons desiring to make application to be registered as a dealer or investment adviser.

K. The Commissioner may accept some or all of the examinations administered by securities self-regulatory organizations to fulfill the examination requirements of Subsection D.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 13; Acts 1963, 58th Leg., p. 473, ch. 170, Sec. 9.
Amended by Acts 1983, 68th Leg., p. 2688, ch. 465, Sec. 1, eff. Sept. 1, 1983; Subsec. K amended by Acts 1995, 74th Leg., ch. 228, Sec. 8, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1091, Sec. 2.10, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-13-1. INSPECTION. A. The Commissioner, without notice, may inspect a registered dealer or registered investment adviser as necessary to ensure compliance with this Act and Board rules.

B. The Commissioner, during regular business hours, may:

(1) enter the business premises of a registered dealer or registered investment adviser; and

(2) examine and copy books and records pertinent to the inspection.

C. During the inspection, the dealer or investment adviser shall:

(1) provide to the Commissioner or the Commissioner's authorized representative immediate and complete access to the person's office, place of business, files, safe, and any other location in which books and records pertinent to the inspection are located; and

(2) allow the Commissioner or the Commissioner's authorized representative to make photostatic or electronic copies of books or records subject to inspection.

D. A dealer or investment adviser may not charge a fee for copying information under this section.

E. Information obtained under this section and any intra-agency or interagency notes, memoranda, reports, or other communications consisting of advice, analyses, opinions, or recommendations that are made in connection with the inspection are confidential and may not be disclosed to the public or released by the Commissioner except to the same extent provided for the release or disclosure of confidential documents or other information made or obtained in connection with an investigation under Section 28 of this Act.

Added by Acts 2001, 77th Leg., ch. 1091, Sec. 3.01, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-14. DENIAL, SUSPENSION OR REVOCATION OF REGISTRATION AS DEALER, AGENT, INVESTMENT ADVISER, OR INVESTMENT ADVISER REPRESENTATIVE. A. The Commissioner may deny, revoke, or suspend a registration issued under this Act, place on probation a dealer, agent, investment adviser, or investment adviser representative whose registration has been suspended under this Act, or reprimand a person registered under this Act if the person:

(1) has been convicted of any felony;

(2) has been convicted of any misdemeanor which directly relates to the person's securities-related duties and responsibilities;

(3) has engaged in any inequitable practice in the sale of securities or in rendering services as an investment adviser, or in any fraudulent business practice;

(4) is a dealer or investment adviser who is insolvent;

(5) meets one of the following criteria:

(a) is a dealer who is selling or has sold securities in this state through an agent other than a registered agent;

(b) is an investment adviser who is engaging or has engaged in rendering services as an investment adviser in this state through a representative who is not registered to perform services for that investment adviser as required by this Act;

(c) is an agent who is selling or has sold securities in this state for a dealer, issuer or controlling person with knowledge that such dealer, issuer or controlling person has not complied with the

provisions of this Act; or

(d) is an investment adviser representative who is rendering or has rendered services as an investment adviser for an investment adviser in this state for whom the representative is not or was not registered to represent as required by this Act;

(6) has violated any of the provisions of this Act or a rule of the Board;

(7) has made any material misrepresentation to the Commissioner or Board in connection with any information deemed necessary by the Commissioner or Board to determine a dealer's or investment adviser's financial responsibility or a dealer's,agent's, investment adviser's or investment adviser representative's business repute or qualifications, or has refused to furnish any such information requested by the Commissioner or Board;

(8) became registered as a dealer, agent, investment adviser, or investment adviser representative after August 23, 1963, and has not complied with a condition imposed by the Commissioner under Section 13-D;

(9) is the subject of any of the following orders that are currently effective and were issued within the last five years:

(a) an order by the securities agency or administrator of any state, by the financial regulatory authority of a foreign country, or by the Securities and Exchange Commission, entered after notice and opportunity for hearing, denying, suspending, or revoking the person's license as a dealer, agent, investment adviser, or investment adviser representative or the substantial equivalent of those terms;

(b) a suspension or expulsion from membership in or association with a member of a self-regulatory organization;

(c) a United States Postal Service fraud order;

(d) an order by the securities agency or administrator of any state, the financial regulatory authority of a foreign country, the Securities and Exchange Commission, or by the Commodity Futures Trading Commission, finding, after notice and opportunity for hearing, that the person engaged in acts involving fraud, deceit, false statements or omissions, or wrongful taking of property;

(e) an order by the Commodity Futures Trading Commission denying, suspending, or revoking registration under the Commodity Exchange Act;

(10) is subject to any order, judgment, or decree entered by any

court of competent jurisdiction which permanently restrains or enjoins such person from engaging in or continuing any conduct, action, or practice in connection with any aspect of the purchase or sale of securities or the rendering of security investment advice; or

(11) has violated any provision of any order issued by the Commissioner or has violated any provision of any undertaking or agreement with the Commissioner.

B. If the Commissioner proposes to suspend or revoke a person's registration, the person is entitled to a hearing before the Commissioner or a hearings officer as now or hereafter required by law. Proceedings for the suspension or revocation of a registration are governed by Chapter 2001, Government Code.

C. This section does not affect the confidentiality of investigative records maintained by the Commissioner or Board.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 14. Amended by Acts 1963, 58th Leg., p. 473, ch. 170, Sec. 10.
Amended by Acts 1983, 68th Leg., p. 2688, ch. 465, Sec. 1, eff. Sept. 1, 1983. Subsec. A amended by Acts 1985, 69th Leg., ch. 578, Sec. 1, eff. June 12, 1985; Subsecs. A, D amended by Acts 1995, 74th Leg., ch. 228, Sec. 9, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1091, Sec. 3.02, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-15. ISSUANCE OF REGISTRATION CERTIFICATES TO DEALERS AND INVESTMENT ADVISERS. If the Commissioner is satisfied that the applicant for a dealer's or investment adviser's certificate of registration has complied with the requirements of the Act above, that the applicant has filed a written consent to service as and when required by Section 8 of this Act, and upon the payment of the fees required by Section 35 of this Act, the Commissioner shall register the applicant and issue to it or him a registration certificate, stating the principal place of business and address of the dealer or investment adviser, the names and business addresses of all persons interested in the business as principals, officers, directors or managing agents, and the fact that the dealer or investment adviser has been registered for a current calendar year as a dealer in securities or as an investment adviser. Pending final disposition of

an application, the Commissioner may, for special cause shown, grant temporary permission, revocable at any time and subject to such terms and conditions as the Commissioner may prescribe, to transact business as a dealer or investment adviser under this Act. Any dealer or investment adviser acting under such a temporary permission, shall be considered a registered dealer or investment adviser for all purposes of this Act.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 15.
Amended by Acts 1983, 68th Leg., p. 5219, ch. 953, Sec. 1, eff. Sept. 1, 1983; Acts 2001, 77th Leg., ch. 1091, Sec. 2.11, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-17. FORM OF CERTIFICATES TO DEALERS AND INVESTMENT ADVISERS. The certificate shall be in such form as the Commissioner may determine. Any changes in the personnel of a partnership or in the principals, officers, directors or managing agents of any dealer or investment adviser shall be immediately certified under oath to the Commissioner and any change in the certificate necessitated thereby may be made at any time, upon written application setting forth the fact necessitating the change. Upon the issue of the amended certificates, the original certificate and the certified copies thereof outstanding shall be promptly surrendered to the Commissioner.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 17.
Amended by Acts 2001, 77th Leg., ch. 1091, Sec. 2.12, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-18. REGISTRATION OF AGENTS OF DEALERS OR OF REPRESENTATIVES OF INVESTMENT ADVISERS. Upon written application by a registered dealer or investment adviser, and upon satisfactory compliance with the requirements of the Act above, the Commissioner shall register as an agent of such dealer or as a representative of the investment adviser such persons as the dealer or investment adviser may request. The application shall be in such form as the

Commissioner may prescribe and shall state the residences and addresses of the persons whose registration is requested, together with such information as to such agent's or investment adviser representative's previous history, record and association as may be required by the Commissioner. Such application shall also be signed and sworn to by the agent or investment adviser representative for whom registration is requested. The Commissioner shall issue to such dealer or investment adviser, to be retained by such dealer or investment adviser for each person so registered, evidence of registration stating the person's name, the address of the dealer or investment adviser, and the fact that the person is registered for the current calendar year as an agent or investment adviser representative of the dealer or investment adviser, as appropriate. The evidence of registration shall be in such form as the Commissioner shall determine. Upon application by the dealer or the investment adviser, the registration of any agent or investment adviser representative shall be cancelled.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 18.
Amended by Acts 1983, 68th Leg., p. 2688, ch. 465, Sec. 1, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5220, ch. 953, Sec. 2, eff. Sept. 1, 1983; Acts 2001, 77th Leg., ch. 1091, Sec. 2.13, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-19. ANNUAL REGISTRATION; RENEWALS. A. Except as provided in Subsections B and C of this section, all registrations shall expire at the close of the calendar year, but new registrations for the succeeding year shall be issued upon written application and upon payment of the fees as hereinafter provided, without filing of further statements or furnishing any further information unless specifically requested by the Commissioner. If any applicant is registered after December 1st of any year, he may immediately apply for a renewal of his registration for the ensuing year.

B. The Board by rule may adopt a system under which registrations expire on various dates during the year. For the year in which the registration expiration date is changed, registration fees payable after the 60th day and before the 30th day before January 1st of the next year shall be prorated on a monthly basis so

that each person shall pay only that portion of the registration fee that is allocable to the number of months during which the registration is valid. On renewal of the registration on the new expiration date, the total registration renewal fee is payable.

C. Renewal of Registration. (1) A person may renew an unexpired registration by filing a renewal application in the form prescribed by the Commissioner and paying to the Board, before the expiration date of the registration, the required renewal fee.

(2) If a person's registration has been expired for ninety (90) days or less, the person may renew the registration by filing a renewal application with the Commissioner and paying to the Board the required renewal fee and a fee that is equal to one-half of the original application fee for the registration.

(3) If a person's registration has been expired for longer than ninety (90) days but less than two years, the person may renew the registration by filing a renewal application with the Commissioner and paying to the Board all unpaid renewal fees and a fee that is equal to the original application fee for the registration.

(4) If a person's registration has been expired for two years or more, the person may not renew the registration. The person may obtain a new registration by submitting to reexamination and complying with the requirements and procedures for obtaining an original registration. The person must pay to the Board a fee that is equal to the original application fee.

(5) At least thirty (30) days before the expiration of a person's registration, the Commissioner shall send to the person at the person's last known address according to the records of the Board a written notice of the impending expiration of the registration.

(6) A person who sells securities or renders investment advisory services after the person's registration has expired and before it is renewed is subject to the sanctions provided by this Act for selling securities or rendering investment advice without being registered.

D. The Board may recognize, prepare, or administer continuing education programs for a person who is registered under this Act. If participation is required by the Board as a condition of maintaining the certificate or evidence of registration, a person who is registered under this Act must participate in the continuing education programs.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 19.

Amended by Acts 1983, 68th Leg., p. 2688, ch. 465, Sec. 1, eff. Sept. 1, 1983. Subsec. A amended by Acts 1989, 71st Leg., ch. 733, Sec. 4, eff. Sept. 1, 1989; Subsec. C amended by Acts 1995, 74th Leg., ch. 228, Sec. 11, eff. Sept. 1, 1995; Subsec. D amended by Acts 2001, 77th Leg., ch. 1091, Sec. 2.14, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-20. DISPLAY OR ADVERTISEMENT OF FACT OF REGISTRATION UNLAWFUL. It shall be unlawful for any dealer, agent, investment adviser, or investment adviser representative to use the fact of his registry, by public display or advertisement, except as hereinafter expressly provided, for the registration certificate or evidence of registration or any certified copy thereof, in connection with any sale or effort to sell any security or any rendering of services as an investment adviser.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 20.
Amended by Acts 1989, 71st Leg., ch. 733, Sec. 5, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 1091, Sec. 2.15, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-21. POSTING REGISTRATION CERTIFICATES. Immediately upon receipt of the dealer's or investment adviser's registration certificate issued pursuant to the authority of this Act, the dealer or investment adviser named therein shall cause such certificate to be posted and at all times conspicuously displayed in such dealer's or investment adviser's principal place of business, if one is maintained in this state, and shall likewise forthwith cause a duplicate of such certificate to be posted and at all times conspicuously displayed in each branch office located within this state.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 21.
Amended by Acts 2001, 77th Leg., ch. 1091, Sec. 2.16, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-22. REGULATION OF OFFERS. A. Permitted Written, Pictorial, or Broadcast Offers. A written or printed offer (including a pictorial demonstration with any accompanying script) or a broadcast offer (i.e., an offer disseminated by radio, television, recorded telephone presentation, or other mass media) to sell a security may be made in this State if:

(1) a copy of the offer is filed with the Commissioner within 10 days after the date of its first use in this State; and

(2) the person making or distributing the offer in this State is a registered dealer or a registered agent of a registered dealer, as required by this Act; and

(3) either:

(a) the security is registered under Subsection B or C of Section 7 or a permit has been granted for the security under Section 10, or

(b) an application for registration under Subsection B or C of Section 7 or for a permit under Section 10 has been filed with the Commissioner; and

(4) if registration has not become effective under Subsection B or C of Section 7 or a permit has not been granted under Section 10, the offer prominently states on the first page of a written or printed offer or as a preface to any pictorial or broadcast offer either:

(a)

INFORMATIONAL ADVERTISING ONLY.

THE SECURITIES HEREIN DESCRIBED HAVE NOT BEEN QUALIFIED OR REGISTERED FOR SALE IN TEXAS. ANY REPRESENTATION TO THE CONTRARY OR CONSUMMATION OF SALE OF THESE SECURITIES IN TEXAS PRIOR TO QUALIFICATION OR REGISTRATION THEREOF IS A CRIMINAL OFFENSE.

or

(b) other language required by the United States Securities and Exchange Commission that in the Commissioner's opinion will inform investors that the securities may not yet be sold; and

(5) the person making or distributing the offer in this State;

(a) has not received notice in writing of an order prohibiting the offer under Subsection A or B of Section 23, or

(b) has received such notice but the order is no longer in effect; and

(6) payment is not accepted from the offeree and no contract of sale is made before registration is effective under Subsection B or C

of Section 7 or a permit is granted under Section 10.

B. Permitted Oral Offers. An oral offer (not broadcast, i.e., not disseminated by radio, television, recorded telephone presentation, or other mass media) to sell a security may be made in this State in person, by telephone, or by other direct individual communication if:

(1) the person making the offer in this State is a registered dealer or a registered agent of a registered dealer, as required by this Act; and

(2) either:

(a) the security is registered under Subsection B or C of Section 7 or a permit has been granted for the security under Section 10, or

(b) an application for registration under Subsection B or C of Section 7 or for a permit under Section 10 has been filed with the Commissioner; and

(3) the person making or distributing the offer in this State:

(a) has not received notice in writing of an order prohibiting the offer under Subsection A or B of Section 23, or

(b) has received such notice but the order is no longer in effect; and

(4) payment is not accepted from the offeree and no contract of sale is made before registration is effective under Subsection B or C of Section 7 or before a permit is granted under Section 10.

C. Effect of Compliance. An offer in compliance with Subsection A or B of Section 22 is not a violation of Section 7.

D. Effect of Noncompliance. An offer not in compliance with Subsection A or B of Section 22 is unlawful and a violation of this Act.

E. Applicability. Section 22 does not apply to transactions or securities exempt under Section 5 or Section 6.

F. Dealers Named in Offer. A dealer whose name is included in a written or printed or broadcast offer along with the name of a registered dealer is not deemed to make an offer in this State by that fact alone.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 22; Acts 1961, 57th Leg., p. 1047, ch. 466, Sec. 2.
Subsec. A amended by Acts 1977, 65th Leg., p. 873, ch. 327, Sec. 5, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 357, ch.

160, Sec. 5, eff. May 15, 1979; Subsec. A amended by Acts 1987, 70th Leg., ch. 732, Sec. 1, eff. Sept. 1, 1987; Subsecs. A, B amended by Acts 2001, 77th Leg., ch. 1091, Sec. 2.17, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-23. CEASE AND DESIST ORDERS; CEASE PUBLICATION ORDERS; LIST OF SECURITIES OFFERED. Anything in this Act to the contrary notwithstanding,

A. If it appears to the commissioner at any time that the sale or proposed sale or method of sale of any securities, whether exempt or not, is a fraudulent practice or would not be in compliance with this Act or would tend to work a fraud on any purchaser thereof or would not be fair, just or equitable to any purchaser thereof, the commissioner may hold a hearing on a date determined by the commissioner within 30 days after the date of receipt of actual notice by, or notice by registered or certified mail to the person's last known address is given to, the issuer, the registrant, the person on whose behalf such securities are being or are to be offered, or any person acting as a dealer or agent in violation of this Act. If the commissioner shall determine at such hearing that such sale would not be in compliance with the Act, is a fraudulent practice, or would tend to work a fraud on any purchaser thereof or would not be fair, just or equitable to any purchaser thereof, the commissioner may issue a written cease and desist order, prohibiting or suspending the sale of such securities or denying or revoking the registration of such securities, prohibiting an unregistered person from acting as a dealer or an agent, or prohibiting the fraudulent conduct. No dealer or agent shall thereafter knowingly sell or offer for sale any security named in such cease and desist order.

B. If it appears to the Commissioner at any time that an investment adviser or investment adviser representative is engaging or is likely to engage in fraud or a fraudulent practice with respect to rendering services as an investment adviser or investment adviser representative or that a person is acting as an investment adviser or investment adviser representative in violation of this Act, the Commissioner may hold a hearing not later than the 30th day after the date on which the person receives actual notice or is provided notice by registered or certified mail, return receipt requested, to the person's last known address. After the hearing, the Commissioner

shall issue or decline to issue a cease and desist order. An order issued under this subsection must:

(1) require the investment adviser or investment adviser representative to immediately cease and desist from the fraudulent conduct; or

(2) prohibit an unregistered or other unauthorized person who is not exempt from the registration or notice filing requirements of this Act from acting as an investment adviser or investment adviser representative in violation of this Act.

C. If it appears to the Commissioner at any time that an offer contains any statement that is materially false or misleading or is otherwise likely to deceive the public, the Commissioner may issue a cease publication order. No person shall make an offer prohibited by such cease publication order.

D. The commissioner may, in the exercise of reasonable discretion hereunder, at any time, require a dealer to file with the commissioner a list of securities which he has offered for sale or has advertised for sale within this State during the preceding six months, or which he is at the time offering for sale or advertising, or any portion thereof.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 23.
Amended by Acts 1973, 63rd Leg., p. 216, ch. 97, Sec. 1, eff. Aug. 27, 1973; Acts 1979, 66th Leg., p. 359, ch. 160, Sec. 6, eff. May 15, 1979; Acts 1987, 70th Leg., ch. 732, Sec. 2, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 733, Sec. 6, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 228, Sec. 12, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1091, Sec. 3.03, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-23-1. ASSESSMENT OF ADMINISTRATIVE FINES.

A. After giving notice and opportunity for a hearing, the Commissioner may, in addition to any other remedies, issue an order which assesses an administrative fine against any person or company found to have:

(1) engaged in fraud or a fraudulent practice in connection with:

(A) the offer for sale or sale of a security; or

(B) the rendering of services as an investment adviser or investment adviser representative;

(2) made an offer containing a statement that is materially misleading or is otherwise likely to deceive the public;

(3) engaged in an act or practice that violates this Act or a Board rule or order; or

(4) with intent to deceive or defraud or with reckless disregard for the truth or the law, materially aided any person in engaging in an act or practice described by Subdivision (1), (2), or (3) of this subsection.

B. Any administrative fine assessed under this Section, together with the amount of any civil penalty already awarded under Subsection C of Section 32, must be in an amount not to exceed:

(1) the greater of:

(A) $20,000 per violation; or

(B) the gross amount of any economic benefit gained by the person or company a result of the act or practice for which the fine was assessed; and

(2) if the act or practice was committed against a person 65 years of age or older, an additional amount of not more than $250,000.

C. For purposes of determining the amount of an administrative fine assessed under this Section, the Commissioner shall consider factors set out in guidelines established by the Board.

D. For purposes of private civil litigation, the payment of a fine assessed in an agreed order under this Act shall not constitute an admission of any misconduct described in the agreed order.

E. Any proceeding for the assessment of an administrative fine must be commenced within five years after the violation occurs.

Added by Acts 1995, 74th Leg., ch. 228, Sec. 13, eff. Sept. 1, 1995.
Subsec. A amended by Acts 2001, 77th Leg., ch. 1091, Sec. 3.04, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 523 (H.B. 2342), Sec. 1, eff. September 1, 2011.

Text of article effective until January 1, 2022

Art. 581-23-2. EMERGENCY CEASE AND DESIST ORDER. A. On the

Commissioner's determination that the conduct, act, or practice threatens immediate and irreparable public harm, the Commissioner may issue an emergency cease and desist order to a person whom the Commissioner reasonably believes:

(1) is engaging in or is about to engage in fraud or a fraudulent practice in connection with:

(A) the offer for sale or sale of a security; or

(B) the rendering of services as an investment adviser or investment adviser representative;

(2) has made an offer containing a statement that is materially misleading or is otherwise likely to deceive the public; or

(3) is engaging or is about to engage in an act or practice that violates this Act or a Board rule.

B. The order must:

(1) be sent on issuance to each person affected by the order by personal delivery or registered or certified mail, return receipt requested, to the person's last known address;

(2) state the specific charges and require the person to immediately cease and desist from the unauthorized activity; and

(3) contain a notice that a request for hearing may be filed under this section.

C. Unless a person against whom the emergency order is directed requests a hearing in writing before the 31st day after the date it is served on the person, the emergency order is final and nonappealable as to that person. A request for a hearing must:

(1) be in writing and directed to the Commissioner; and

(2) state the grounds for the request to set aside or modify the order.

D. On receiving a request for a hearing, the Commissioner shall serve notice of the time and place of the hearing by personal delivery or registered or certified mail, return receipt requested. The hearing must be held not later than the 10th day after the date the Commissioner receives the request for a hearing unless the parties agree to a later hearing date. At the hearing, the Commissioner has the burden of proof and must present evidence in support of the order.

E. After the hearing, the Commissioner shall affirm, modify, or set aside in whole or part the emergency order. An order affirming or modifying the emergency order is immediately final for purposes of enforcement and appeal.

F. An emergency order continues in effect unless the order is stayed by the Commissioner. The Commissioner may impose any condition before granting a stay of the order.

Added by Acts 2001, 77th Leg., ch. 1091, Sec. 3.05, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-24. HEARINGS UPON EXCEPTION TO ACTIONS OF COMMISSIONER. A. If any person or company should take exception to the action of the Commissioner in failing or refusing to register and issue certificate for a dealer or investment adviser or evidence of registration for an investment adviser representative or agent under Section 15 or 18 of this Act, in issuing an order under Section 23 or 23-2 of this Act, or in any other particular where this Act specifies no other procedure, the complaining party may request a hearing before the Commissioner or before a hearings officer as now or hereafter required by law.

B. On complaint by a person aggrieved by a denial of a permit for the sale of securities under Section 10 of this article or a failure or refusal to register securities under Section 7 of this article, the Board or a hearings officer as now or hereafter required by law shall conduct a hearing.

C. Hearings under this Section are subject to the requirements of Chapter 2001, Government Code.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 24.
Amended by Acts 1983, 68th Leg., p. 2688, ch. 465, Sec. 1, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 228, Sec. 14, eff. Sept. 1, 1995; Subsec. A amended by Acts 2001, 77th Leg., ch. 1091, Sec. 3.06, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-25. REVOCATION OF REGISTRATION OF ANY DEALER, AGENT, INVESTMENT ADVISER, OR INVESTMENT ADVISER REPRESENTATIVE. The revocation of a dealer's or investment adviser's registration shall constitute a revocation of the registration of any agent of the dealer or any investment adviser representative of the investment

adviser and notice of its operation on such agent or investment adviser representative shall be forthwith sent by the Commissioner to each of such agents or investment adviser representatives. All registrations and evidences of registration revoked shall at once be surrendered to the Commissioner upon request.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 25.
Amended by Acts 1983, 68th Leg., p. 2688, ch. 465, Sec. 1 eff. Sept. 1, 1983; Acts 2001, 77th Leg., ch. 1091, Sec. 3.07, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-25-1. RECEIVERSHIPS OF PERSONS OR ASSETS. A. Whenever it shall appear to the commissioner, either upon complaint or otherwise, that:

(1) any person or company acting as a dealer, agent, investment adviser, investment adviser representative, or issuer (as defined in Section 4 of this Act), or an affiliate of a dealer, agent, investment adviser, investment adviser representative, or issuer, whether or not required to be registered by the commissioner as in this Act provided, shall have engaged in any act, transaction, practice, or course of business declared by Section 32 of this Act to be a fraudulent practice;

(2) such person or company shall have acted as a dealer, agent, investment adviser, investment adviser representative, or issuer or an affiliate of a dealer, agent, investment adviser, investment adviser representative, or issuer in connection with such fraudulent practice; and

(3) the appointment of a receiver for such person or company, or the assets of such a person or company is necessary in order to conserve and protect the assets of such person or company for the benefit of customers, security holders, and other actual and potential claimants of such person or company the commissioner may request the attorney general to bring an action for the appointment of a receiver for such person or company or the assets of such person or company.

B. Upon request by the commissioner pursuant to Subsection A of this Section 25-1, and if it appears to the attorney general that the facts enumerated in Paragraphs (1) through (3) of Subsection A of

this Section 25-1 exist with respect to any person or company, the attorney general may bring an action in the name and on behalf of the State of Texas for the appointment of a receiver for such person or company. The facts set forth in the petition for such relief shall be verified by the commissioner upon information and belief. Such action may be brought in a district court of any county wherein the fraudulent practice complained of has been committed in whole or part, or of any county wherein any defendant with respect to whom appointment of a receiver is sought has its principal place of business, and such district court shall have jurisdiction and venue of such action; this provision shall be superior to any other provision of law fixing jurisdiction or venue with regard to suits for receivership. In any such action the attorney general may apply for and on due showing be entitled to have issued the court's subpoena requiring the forthwith appearance of any defendant and his employees, investment adviser representatives, or agents and the production of documents, books, and records as may appear necessary for any hearing, to testify and give evidence concerning matters relevant to the appointment of a receiver.

C. In any action brought by the attorney general pursuant to Subsection B of this Section 25-1, the court, upon a proper showing by the attorney general of the existence of the facts enumerated in Paragraphs (1) through (3) of Subsection A of this Section 25-1 with respect to any person or company, may appoint a receiver for such person or company or the assets of such person or company. If such receiver is appointed without notice to and opportunity to be heard for such person or company, such person or company shall be entitled to apply in writing to the court for an order dissolving the receivership, and, if such application is made within 30 days after service upon such person or company of the court's order making such appointment, shall be entitled to a hearing thereon upon 10 days written notice to the attorney general.

D. No person shall be appointed a receiver pursuant to this Section 25-1 unless such person be found by the court, after hearing the views of the attorney general, the commissioner, and, if deemed by the court to be practicable, the person or company against whom such relief is sought, to be qualified to discharge the duties of receiver giving due consideration to the probable nature and magnitude of the duties of receiver in the particular case. No bond for receivership shall be required of the commissioner or attorney

general in any proceeding under this Section 25-1, but the court shall require a bond of any receiver appointed hereunder, conditioned upon faithful discharge of the receiver's duties, in an amount found by the court to be sufficient giving due consideration to the probable nature and magnitude of the duties of receiver in the particular case.

E. The remedy of receivership provided by this Section 25-1 shall be in addition to any and all other remedies afforded the commissioner or the attorney general by other provisions of statutory or decisional law of this state, including, without limitation of the generality of the foregoing, any such provision authorizing receiverships.

Added by Acts 1975, 64th Leg., p. 206, ch. 78, Sec. 4, eff. Sept. 1, 1975. Amended by Acts 1989, 71st Leg., ch. 733, Sec. 7, eff. Sept. 1, 1989; Subsecs. A, B amended by Acts 2001, 77th Leg., ch. 1091, Sec. 3.08, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-26. NOTICES BY REGISTERED MAIL. Any notice required by this Act shall be sufficient if sent by registered or certified mail unless otherwise specified in this Act, addressed to a person at the address designated in any filings submitted by the person to the Commissioner or the person's last known address. A full and complete record shall be kept of all proceedings had before the Commissioner on any hearing or investigation.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 26.
Amended by Acts 2001, 77th Leg., ch. 1091, Sec. 2.18, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-27. JUDICIAL REVIEW. Judicial review of a decision of the Commissioner or Board is under the substantial evidence rule.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 27.
Amended by Acts 1981, 67th Leg., p. 763, ch. 291, Sec. 4, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 2688, ch. 465, Sec. 1, eff. Sept.

1, 1983.

Text of article effective until January 1, 2022

Art. 581-28. INVESTIGATIONS, INVESTIGATORY MATERIALS, AND REGISTRATION RELATED MATERIALS. A. Investigations by Commissioner. The Commissioner shall conduct investigations as the Commissioner considers necessary to prevent or detect the violation of this Act or a Board rule or order. For this purpose, the Commissioner may require, by subpoena or summons issued by the Commissioner, the attendance and testimony of witnesses and the production of all records, whether maintained by electronic or other means, relating to any matter which the Commissioner has authority by this Act to consider or investigate, and may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence; provided, however, that all information of every kind and nature received in connection with an investigation and all internal notes, memoranda, reports, or communications made in connection with an investigation shall be treated as confidential by the Commissioner and shall not be disclosed to the public except under order of court for good cause shown. Nothing in this section shall be interpreted to prohibit or limit the publication of rulings or decisions of the Commissioner nor shall this limitation apply if disclosure is made, in the discretion of the Commissioner, as part of an administrative proceeding or a civil or criminal action to enforce this Act. In case of disobedience of any subpoena, or of the contumacy of any witness appearing before the Commissioner, the Commissioner may invoke the aid of the District Court within whose jurisdiction any witness may be found, and such court may thereupon issue an order requiring the person subpoenaed to obey the subpoena or give evidence, or produce books, accounts, records, papers, and correspondence touching the matter in question. Any failure to obey such order of the court may be punished by such court as contempt thereof.

In the course of an investigation looking to the enforcement of this Act, or in connection with the application of a person or company for registration or to qualify securities, the Commissioner or Deputy Commissioner shall have free access to all records and reports of and to any department or agency of the state government. In the event, however, that the Commissioner or Deputy Commissioner should give out any information which the law makes confidential, the

affected corporation, firm or person shall have a right of action on the official bond of the Commissioner or Deputy for the corporation's, firm's, or person's injuries, in a suit brought in the name of the state at the relation of the injured party.

The Commissioner may in any investigation cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed for depositions in civil actions under the laws of Texas.

Each witness required to attend before the Commissioner shall receive a fee, for each day's attendance, in an amount set by Board rule. All disbursements made in the payment of such fees shall be made in accordance with Board rule and shall be included in, and paid in the same manner as is provided for, the payment of other expenses incident to the administration and enforcement of this Act.

The sheriff's or constable's fee for serving the subpoena shall be the same as those paid the sheriff or constable for similar services. The fees, expenses and costs incurred at or in connection with any hearing may be imposed by the Commissioner upon any party to the record, or may be divided between any and all parties to the record in such proportions as the Commissioner may determine.

Any subpoena, summons, or other process issued by the Commissioner may be served, at the Commissioner's discretion, by the Commissioner, the Commissioner's authorized agent, a sheriff, or a constable.

The Commissioner may, at the Commissioner's discretion, disclose any confidential information in the Commissioner's possession to any governmental or regulatory authority or association of governmental or regulatory authorities approved by Board rule or to any receiver appointed under Section 25-1 of this Act. The disclosure does not violate any other provision of this Act or Chapter 552, Government Code.

B. Confidentiality of Certain Registration-Related and Other Materials. To the extent not already provided for by this Act, any intraagency or interagency notes, memoranda, reports, or other communications consisting of advice, analyses, opinions, or recommendations shall be treated as confidential by the Commissioner and shall not be disclosed to the public, except under order of court, for good cause shown. The Commissioner may, at the Commissioner's discretion, disclose any confidential information in the Commissioner's possession to any governmental or regulatory

authority or association of governmental or regulatory authorities approved by Board rule or to any receiver appointed under Section 25-1 of this Act. The disclosure does not violate any other provision of this Act or Chapter 552, Government Code.

C. Assistance to Securities Regulator of Another Jurisdiction. The Commissioner may provide assistance to a securities regulator of another state or a foreign jurisdiction who requests assistance in conducting an investigation to determine whether a person has violated, is violating, or is about to violate a law or rule of the other state or foreign jurisdiction relating to a securities matter the securities regulator is authorized to administer or enforce. The Commissioner may provide assistance by using the authority to investigate and any other power conferred by this section as the Commissioner determines is necessary and appropriate. In determining whether to provide the assistance, the Commissioner may consider:

(1) whether the securities regulator is permitted and has agreed to provide assistance within the regulator's jurisdiction to the Commissioner reciprocally and at the Commissioner's request concerning securities matters;

(2) whether compliance with the request for assistance would violate or otherwise prejudice the public policy of this state;

(3) whether the conduct described in the request would also constitute a violation of this Act or another law of this state had the conduct occurred in this state; and

(4) the availability of Board employees and resources of the Board or Commissioner necessary to carry out the request for assistance.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 28.
Amended by Acts 1977, 65th Leg., p. 873, ch. 327, Sec. 6, eff. Aug. 29, 1977; Acts 1989, 71st Leg., ch. 733, Sec. 8, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 228, Sec. 15, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1091, Sec. 3.09, eff. Sept. 1, 2001. Subsec. C added by Acts 2003, 78th Leg., ch. 108, Sec. 2, eff. May 20, 2003.

Text of article effective until January 1, 2022

Art. 581-28-1. ADOPTION OF RULES AND REGULATIONS. A. For purposes of this Section 28-1, the term "rule and regulation" shall mean any statement by the board of general and future applicability

that implements, interprets, or prescribes law or policy or describes the organization, procedure, or practice requirements of the board. The term includes the amendment or repeal of a prior rule or regulation, but does not include statements concerning only the internal management of the board not affecting private rights or procedures or forms or orders adopted or made by the board or the commissioner pursuant to other provisions of this Act.

B. The board may, from time to time, in accordance with the provisions of this Section 28-1, make or adopt such rules and regulations as may be necessary to carry out and implement the provisions of this Act, including rules and regulations governing registration statements, applications, notices, and reports, and defining any terms, whether or not used in this Act, insofar as the definitions are not inconsistent with the purposes fairly intended by the policy and provisions of this Act. For the purpose of adoption of rules and regulations, the board may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes. The board may, in its discretion, waive any requirement of any rule or regulation in situations where, in its opinion, such requirement is not necessary in the public interest or for the protection of investors.

C. No rule or regulation may be made or adopted unless the board finds, after notice and opportunity for comment in accordance with the provisions of this Section 28-1, that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this Act.

D. The board may, by rule or regulation adopted in accordance with this Section 28-1, delegate to the commissioner or the deputy commissioner such of the authority granted to the board under this Section 28-1 to hold hearings for adoption of rules and regulations and to make or adopt rules and regulations, or to waive the requirements thereof, as it may, from time to time, deem appropriate. All rules and regulations made or adopted by the commissioner or the deputy commissioner pursuant to such delegated authority shall be made or adopted in accordance with this Section 28-1.

E. No provision of this Act imposing any liability or penalty applies to any act done or omitted in good faith in conformity with any rule or regulation of the board, notwithstanding that the rule or regulation may later be amended or rescinded or be determined by

judicial or other authority to be invalid for any reason.

F. The Board may not adopt rules restricting competitive bidding or advertising by a person registered under this Act except to prohibit false, misleading, or deceptive practices by the person. The Board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the Board a rule that restricts the person's use of any medium for advertising, restricts the person's personal appearance or use of his voice in an advertisement, relates to the size or duration of an advertisement by the person, or restricts the person's advertisement under a trade name. However, this section does not affect limitations on advertising contained in Subsections I or Q of Section 5 of this Act or in rules adopted by the Board under Subsection T of Section 5 of this Act.

G to L. Repealed by Acts 1983, 68th Leg., p. 2717, ch. 465, Sec. 5, eff. Sept. 1, 1983.

Added by Acts 1975, 64th Leg., p. 204, ch. 78, Sec. 2, eff. Sept. 1, 1975. Subsec. F amended by Acts 1983, 68th Leg., p. 2715, ch. 465, Sec. 2, eff. Sept. 1, 1983.

Text of article effective until January 1, 2022

Art. 581-29. PENAL PROVISIONS. Any person who shall:

A. Sell, offer for sale or delivery, solicit subscriptions or orders for, dispose of, invite offers for, or who shall deal in any other manner in any security or securities without being a registered dealer or agent as in this Act provided shall be deemed guilty of a felony of the third degree.

B. Sell, offer for sale or delivery, solicit subscriptions to and orders for, dispose of, invite orders for, or who shall deal in any other manner in any security or securities issued after September 6, 1955, unless said security or securities have been registered or granted a permit as provided in Section 7 of this Act, shall be deemed guilty of a felony of the third degree.

C. In connection with the sale, offering for sale or delivery of, the purchase, offer to purchase, invitation of offers to purchase, invitations of offers to sell, or dealing in any other manner in any security or securities, whether or not the transaction or security is exempt under Section 5 or 6 of this Act, or in

connection with the rendering of services as an investment adviser or an investment adviser representative, directly or indirectly:

(1) engage in any fraud or fraudulent practice;

(2) employ any device, scheme, or artifice to defraud;

(3) knowingly make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or

(4) engage in any act, practice or course of business which operates or will operate as a fraud or deceit upon any person, is:

(a) guilty of a felony of the third degree, if the amount involved in the offense is less than $10,000;

(b) guilty of a felony of the second degree, if the amount involved in the offense is $10,000 or more but less than $100,000; or

(c) guilty of a felony of the first degree, if the amount involved is $100,000 or more.

D. Knowingly violate a cease and desist order issued by the commissioner under the authority of Section 23A, 23B, or 23-2 of this Act shall be deemed guilty of a felony of the third degree.

E. Knowingly make or cause to be made, in any document filed with the commissioner or in any proceeding under this Act, whether or not such document or proceeding relates to a transaction or security exempt under the provisions of Sections 5 or 6 of this Act, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect shall be deemed guilty of a felony of the third degree.

F. Knowingly make any false statement or representation concerning any registration made or exemption claimed under the provisions of this Act shall be deemed guilty of a state jail felony.

G. Make an offer of any security within this State that is not in compliance with the requirements governing offers set forth in Section 22 of this Act shall be deemed guilty of a state jail felony.

H. Knowingly make an offer of any security within this State prohibited by a cease publication order issued by the Commissioner under Section 23C of this Act shall be deemed guilty of a state jail felony.

I. Render services as an investment adviser or an investment adviser representative without being registered as required by this Act shall be deemed guilty of a felony of the third degree.

J. A conviction of an offense under this section may be enhanced as provided by Section 12.42, Penal Code.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 29. Amended by Acts 1961, 57th Leg., p. 1047, ch. 466, Sec. 1; Acts 1963, 58th Leg., p. 473, ch. 170, Sec. 11.
Amended by Acts 1973, 63rd Leg., p. 217, ch. 97, Sec. 2, eff. Aug. 27, 1973; Acts 1979, 66th Leg., p. 359, ch. 160, Sec. 7, eff. May 15, 1979; Acts 1983, 68th Leg., p. 2688, ch. 465, Sec. 1, eff. Sept. 1, 1983; Acts 1989, 71st Leg., ch. 733, Sec. 9, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 565, Sec. 9, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 228, Sec. 16, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1091, Sec. 3.10, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 108, Sec. 3, eff. May 20, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 523 (H.B. 2342), Sec. 2, eff. September 1, 2011.

Text of article effective until January 1, 2022

Art. 581-29-1. LIMITATION. An indictment for an offense under Subsection C of Section 29 may be brought only before the fifth anniversary of the day on which the offense is committed.

Added by Acts 1983, 68th Leg., p. 2716, ch. 465, Sec. 3, eff. Sept. 1, 1983.

Text of article effective until January 1, 2022

Art. 581-29-2. AGGREGATION OF AMOUNTS INVOLVED IN SECURITIES FRAUD. When amounts are obtained in violation of this Act under one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one offense and the amounts aggregated in determining the grade of the offense.

Added by Acts 1991, 72nd Leg., ch. 565, Sec. 10, eff. Sept. 1, 1991.

Text of article effective until January 1, 2022

Art. 581-29-3. CRIMINAL RESPONSIBILITY OF CORPORATION OR

ASSOCIATION. A. In this section:

(1) "Association" and "corporation" have the meanings assigned by Section 1.07, Penal Code.

(2) "High managerial agent" has the meaning assigned by Section 7.21, Penal Code.

B. If conduct constituting an offense under Section 29 of this Act is performed by an agent acting in behalf of a corporation or association and within the scope of the person's office or employment, the corporation or association is criminally responsible for the offense only if its commission was authorized, requested, commanded, performed, or recklessly tolerated by:

(1) a majority of the governing board acting in behalf of the corporation or association; or

(2) a high managerial agent acting in behalf of the corporation or association and within the scope of the high managerial agent's office or employment.

C. It is an affirmative defense to prosecution of a corporation or association under Subsection B of this section that the high managerial agent having supervisory responsibility over the subject matter of the offense employed due diligence to prevent its commission.

Added by Acts 2001, 77th Leg., ch. 1091, Sec. 3.11, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-30. CERTIFIED COPIES OF PAPERS FILED WITH COMMISSIONER AS EVIDENCE. Copies of all papers, instruments, or documents filed in the office of the Commissioner, certified by the Commissioner, shall be admitted to be read in evidence in all courts of law and elsewhere in this state in all cases where the original would be admitted in evidence; provided, that in any proceeding in the court having jurisdiction, the court may, on cause shown, require the production of the originals.

The Commissioner shall assume custody of all records of the Securities Divisions within the offices of the Secretary of State and of the Board of Insurance Commissioners, and henceforth these prior records shall be proven under certificate of the Commissioner.

In any prosecution, action, suit or proceeding before any of the

several courts of this state based upon or arising out of or under the provisions of this Act, a certificate under the state seal, duly signed by the Commissioner, showing compliance or non-compliance with the provisions of this Act respecting compliance or non-compliance with the provisions of this Act by any dealer, agent, investment adviser, or investment adviser representative, shall constitute prima facie evidence of such compliance or of such non-compliance with the provisions of this Act, as the case may be, and shall be admissible in evidence in any action at law or in equity to enforce the provisions of this Act.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 30.
Amended by Acts 1993, 73rd Leg., ch. 300, Sec. 10, eff. Aug. 30, 1993; Acts 2001, 77th Leg., ch. 1091, Sec. 3.12, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-31. CONSTRUCTION. Nothing herein contained shall limit or diminish the liability of any person or company, or of its officers or agents, now imposed by law to prevent the prosecution of any person or company, or of its officers or agents, for the violation of the provisions of any other statute.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 31.

Text of article effective until January 1, 2022

Art. 581-32. INJUNCTIONS, RESTITUTION, AND CIVIL PENALTIES. A. Whenever it shall appear to the Commissioner either upon complaint or otherwise, that any person has engaged, is engaging, or is about to engage in fraud or a fraudulent practice in connection with the sale of a security, has engaged, is engaging, or is about to engage in fraud or a fraudulent practice in the rendering of services as an investment adviser or investment adviser representative, has made an offer containing a statement that is materially misleading or is otherwise likely to deceive the public, or has engaged, is engaging, or is about to engage in an act or practice that violates this Act or a Board rule or order, the Attorney General may, on request by the Commissioner, and in addition to any other remedies, bring action in the name and on behalf of the State of Texas against such person or

company and any person who, with intent to deceive or defraud or with reckless disregard for the truth or the law, has materially aided, is materially aiding, or is about to materially aid such person and any other person or persons heretofore concerned in or in any way participating in or about to participate in such acts or practices, to enjoin such person or company and such other person or persons from continuing such acts or practices or doing any act or acts in furtherance thereof. The Commissioner shall verify, on information and belief, the facts contained in an application for injunction under this section. In any such court proceedings, the Attorney General may apply for and on due showing be entitled to have issued the court's subpoena requiring the forthwith appearance of any defendant and the defendant's employees or agents and the production of documents, books and records as may appear necessary for the hearing of such petition, to testify and give evidence concerning the acts or conduct or things complained of in such application for injunction. The District Court of any county, wherein it is shown that the acts complained of have been or are about to be committed, or a district court in Travis County shall have jurisdiction of any action brought under this section, and this provision shall be superior to any provision fixing the jurisdiction or venue with regard to suits for injunction. No bond for injunction shall be required of the Commissioner or Attorney General in any such proceeding.

B. In addition to any other remedies, the Attorney General may, on the request of the Commissioner, either in an action under Subsection A of this section or in a separate action in District Court, seek equitable relief, including restitution, for a victim of fraudulent practices and may seek the disgorgement of any economic benefit gained by a defendant through an act or practice that violates this Act or for which this Act provides the Commissioner or the Attorney General with a remedy. The court may grant any equitable relief that the court considers appropriate and may order the defendant to deliver to each victim of any act or practice that violates this Act or for which this Act provides the Commissioner or the Attorney General with a remedy the amount of money or the property that the defendant obtained from the victim, including any bonus, fee, commission, option, proceeds, or profit from or loss avoided through the sale of the security or through the rendering of services as an investment adviser or investment adviser

representative, or any other tangible benefit.

C. In addition to any other remedies, the Attorney General may, on the request of the Commissioner, either in an action under Subsection A of this section or in a separate action in District Court, seek a civil penalty to be paid to the State in an amount, together with the amount of any administrative fine already assessed under Subsection B of Section 23-1, not to exceed:

(1) the greater of:

(A) $20,000 per violation; or

(B) the gross amount of any economic benefit gained by the person or company as a result of the commission of the act or practice; and

(2) if the act or practice was committed against a person 65 years of age or older, an additional amount of not more than $250,000.

D. In an action brought under this section, the Attorney General may recover reasonable costs and expenses incurred by the Attorney General in bringing the action.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 32.
Amended by Acts 1983, 68th Leg., p. 2688, ch. 465, Sec. 1, eff. Sept. 1. 1983; Acts 1989, 71st Leg., ch. 733, Sec. 10, eff. Sept. 1, 1989; Subsec. A amended by Acts 2001, 77th Leg., ch. 1091, Sec. 3.13, eff. Sept. 1, 2001; Subsecs. B and C amended by Acts 2003, 78th Leg., ch. 108, Sec. 4, eff. May 20, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 523 (H.B. 2342), Sec. 3, eff. September 1, 2011.

Text of article effective until January 1, 2022

Art. 581-32-1. REFUND. A. Subject to Subsection B of this section, the Commissioner may order a dealer, agent, investment adviser, or investment adviser representative regulated under this Act to pay a refund to a client or a purchaser of securities or services from the person or company as provided in an agreed order or an enforcement order instead of or in addition to imposing an administrative penalty or other sanctions.

B. The amount of a refund ordered as provided in an agreed order or an enforcement order may not exceed the amount the client or

purchaser paid to the dealer, agent, investment adviser, or investment adviser representative for a service or transaction regulated by the Board. The Commissioner may not require payment of other damages or estimate harm in a refund order.

Added by Acts 2019, 86th Leg., R.S., Ch. 772 (H.B. 1535), Sec. 6, eff. September 1, 2019.

Text of article effective until January 1, 2022

Art. 581-33. CIVIL LIABILITY WITH RESPECT TO ISSUANCE OR SALE OF A SECURITY. A. Liability of Sellers. (1) Registration and Related Violations. A person who offers or sells a security in violation of Section 7, 9 (or a requirement of the Commissioner thereunder), 12, 23C, or an order under 23A or 23-2 of this Act is liable to the person buying the security from him, who may sue either at law or in equity for rescission or for damages if the buyer no longer owns the security.

(2) Untruth or Omission. A person who offers or sells a security (whether or not the security or transaction is exempt under Section 5 or 6 of this Act) by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, is liable to the person buying the security from him, who may sue either at law or in equity for rescission, or for damages if the buyer no longer owns the security. However, a person is not liable if he sustains the burden of proof that either (a) the buyer knew of the untruth or omission or (b) he (the offeror or seller) did not know, and in the exercise of reasonable care could not have known, of the untruth or omission. The issuer of the security (other than a government issuer identified in Section 5M) is not entitled to the defense in clause (b) with respect to an untruth or omission (i) in a prospectus required in connection with a registration statement under Section 7A, 7B, or 7C, or (ii) in a writing prepared and delivered by the issuer in the sale of a security.

B. Liability of Buyers. A person who offers to buy or buys a security (whether or not the security or transaction is exempt under Section 5 or 6 of this Act) by means of an untrue statement of a material fact or an omission to state a material fact necessary in

order to make the statements made, in the light of the circumstances under which they are made, not misleading, is liable to the person selling the security to him, who may sue either at law or in equity for rescission or for damages if the buyer no longer owns the security. However, a person is not liable if he sustains the burden of proof that either (a) the seller knew of the untruth or omission, or (b) he (the offeror or buyer) did not know, and in the exercise of reasonable care could not have known, of the untruth or omission.

C. Liability of Nonselling Issuers Which Register.

(1) This Section 33C applies only to an issuer which registers under Section 7A, 7B, or 7C of this Act, or under Section 6 of the U.S. Securities Act of 1933, its outstanding securities for offer and sale by or for the owner of the securities.

(2) If the prospectus required in connection with the registration contains, as of its effective date, an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, the issuer is liable to a person buying the registered security, who may sue either at law or in equity for rescission or for damages if the buyer no longer owns the securities. However, an issuer is not liable if it sustains the burden of proof that the buyer knew of the untruth or omission.

D. Rescission and Damages. For this Section 33:

(1) On rescission, a buyer shall recover (a) the consideration he paid for the security plus interest thereon at the legal rate from the date of payment by him, less (b) the amount of any income he received on the security, upon tender of the security (or a security of the same class and series).

(2) On rescission, a seller shall recover the security (or a security of the same class and series) upon tender of (a) the consideration he received for the security plus interest thereon at the legal rate from the date of receipt by him, less (b) the amount of any income the buyer received on the security.

(3) In damages, a buyer shall recover (a) the consideration the buyer paid for the security plus interest thereon at the legal rate from the date of payment by the buyer, less (b) the greater of:

(i) the value of the security at the time the buyer disposed of it plus the amount of any income the buyer received on the security; or

(ii) the actual consideration received for the security at the time the buyer disposed of it plus the amount of any income the buyer received on the security.

(4) In damages, a seller shall recover (a) the value of the security at the time of sale plus the amount of any income the buyer received on the security, less (b) the consideration paid the seller for the security plus interest thereon at the legal rate from the date of payment to the seller.

(5) For a buyer suing under Section 33C, the consideration he paid shall be deemed the lesser of (a) the price he paid and (b) the price at which the security was offered to the public.

(6) On rescission or as a part of damages, a buyer or a seller shall also recover costs.

(7) On rescission or as a part of damages, a buyer or a seller may also recover reasonable attorney's fees if the court finds that the recovery would be equitable in the circumstances.

E. Time of Tender. Any tender specified in Section 33D may be made at any time before entry of judgment.

F. Liability of Control Persons and Aiders.

(1) A person who directly or indirectly controls a seller, buyer, or issuer of a security is liable under Section 33A, 33B, or 33C jointly and severally with the seller, buyer, or issuer, and to the same extent as if he were the seller, buyer, or issuer, unless the controlling person sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist.

(2) A person who directly or indirectly with intent to deceive or defraud or with reckless disregard for the truth or the law materially aids a seller, buyer, or issuer of a security is liable under Section 33A, 33B, or 33C jointly and severally with the seller, buyer, or issuer, and to the same extent as if he were the seller, buyer, or issuer.

(3) There is contribution as in cases of contract among the several persons so liable.

G. Survivability of Actions. Every cause of action under this Act survives the death of any person who might have been a plaintiff or defendant.

H. Statute of Limitations.

(1) No person may sue under Section 33A(1) or 33F so far as it

relates to Section 33A(1):

(a) more than three years after the sale; or

(b) if he received a rescission offer (meeting the requirements of Section 33I) before suit unless he (i) rejected the offer in writing within 30 days of its receipt and (ii) expressly reserved in the rejection his right to sue; or

(c) more than one year after he so rejected a rescission offer meeting the requirements of Section 33I.

(2) No person may sue under Section 33A(2), 33C, or 33F so far as it relates to 33A(2) or 33C:

(a) more than three years after discovery of the untruth or omission, or after discovery should have been made by the exercise of reasonable diligence; or

(b) more than five years after the sale; or

(c) if he received a rescission offer (meeting the requirements of Section 33I) before suit, unless he (i) rejected the offer in writing within 30 days of its receipt, and (ii) expressly reserved in the rejection his right to sue; or

(d) more than one year after he so rejected a rescission offer meeting the requirements of Section 33I.

(3) No person may sue under Section 33B or 33F so far as it relates to Section 33B:

(a) more than three years after discovery of the untruth or omission, or after discovery should have been made by the exercise of reasonable diligence; or

(b) more than five years after the purchase; or

(c) if he received a rescission offer (meeting the requirements of Section 33J) before suit unless he (i) rejected the offer in writing within 30 days of its receipt, and (ii) expressly reserved in the rejection his right to sue; or

(d) more than one year after he so rejected a rescission offer meeting the requirements of Section 33J.

I. Requirements of a Rescission Offer to Buyers. A rescission offer under Section 33H(1) or (2) shall meet the following requirements:

(1) The offer shall include financial and other information material to the offeree's decision whether to accept the offer, and shall not contain an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they

are made, not misleading.

(2) The offeror shall deposit funds in escrow in a state or national bank doing business in Texas (or in another bank approved by the commissioner) or receive an unqualified commitment from such a bank to furnish funds sufficient to pay the amount offered.

(3) The amount of the offer to a buyer who still owns the security shall be the amount (excluding costs and attorney's fees) he would recover on rescission under Section 33D(1).

(4) The amount of the offer to a buyer who no longer owns the security shall be the amount (excluding costs and attorney's fees) he would recover in damages under Section 33D(3).

(5) The offer shall state:

(a) the amount of the offer, as determined pursuant to Paragraph (3) or (4) above, which shall be given (i) so far as practicable in terms of a specified number of dollars and a specified rate of interest for a period starting at a specified date, and (ii) so far as necessary, in terms of specified elements (such as the value of the security when it was disposed of by the offeree) known to the offeree but not to the offeror, which are subject to the furnishing of reasonable evidence by the offeree.

(b) the name and address of the bank where the amount of the offer will be paid.

(c) that the offeree will receive the amount of the offer within a specified number of days (not more than 30) after receipt by the bank, in form reasonably acceptable to the offeror, and in compliance with the instructions in the offer, of:

(i) the security, if the offeree still owns it, or evidence of the fact and date of disposition if he no longer owns it; and

(ii) evidence, if necessary, of elements referred to in Paragraph (a)(ii) above.

(d) conspicuously that the offeree may not sue on his purchase under Section 33 unless:

(i) he accepts the offer but does not receive the amount of the offer, in which case he may sue within the time allowed by Section 33H(1)(a) or 33H(2)(a) or (b), as applicable; or

(ii) he rejects the offer in writing within 30 days of its receipt and expressly reserves in the rejection his right to sue, in which case he may sue within one year after he so rejects.

(e) in reasonable detail, the nature of the violation of this Act that occurred or may have occurred.

(f) any other information the offeror wants to include.

J. Requirements of a Rescission Offer to Sellers. A rescission offer under Section 33H(3) shall meet the following requirements:

(1) The offer shall include financial and other information material to the offeree's decision whether to accept the offer, and shall not contain an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

(2) The offeror shall deposit the securities in escrow in a state or national bank doing business in Texas (or in another bank approved by the commissioner).

(3) The terms of the offer shall be the same (excluding costs and attorney's fees) as the seller would recover on rescission under Section 33D(2).

(4) The offer shall state:

(a) the terms of the offer, as determined pursuant to Paragraph (3) above, which shall be given (i) so far as practicable in terms of a specified number and kind of securities and a specified rate of interest for a period starting at a specified date, and (ii) so far as necessary, in terms of specified elements known to the offeree but not the offeror, which are subject to the furnishing of reasonable evidence by the offeree.

(b) the name and address of the bank where the terms of the offer will be carried out.

(c) that the offeree will receive the securities within a specified number of days (not more than 30) after receipt by the bank, in form reasonably acceptable to the offeror, and in compliance with the instructions in the offer, of:

(i) the amount required by the terms of the offer; and

(ii) evidence, if necessary, of elements referred to in Paragraph (a)(ii) above.

(d) conspicuously that the offeree may not sue on his sale under Section 33 unless:

(i) he accepts the offer but does not receive the securities, in which case he may sue within the time allowed by Section 33H(3)(a) or (b), as applicable; or

(ii) he rejects the offer in writing within 30 days of its receipt and expressly reserves in the rejection his right to sue, in which case he may sue within one year after he so rejects.

(e) in reasonable detail, the nature of the violation of this Act that occurred or may have occurred.

(f) any other information the offeror wants to include.

K. Unenforceability of Illegal Contracts. No person who has made or engaged in the performance of any contract in violation of any provision of this Act or any rule or order or requirement hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract.

L. Waivers Void. A condition, stipulation, or provision binding a buyer or seller of a security or a purchaser of services rendered by an investment adviser or investment adviser representative to waive compliance with a provision of this Act or a rule or order or requirement hereunder is void.

M. Saving of Existing Remedies. The rights and remedies provided by this Act are in addition to any other rights (including exemplary or punitive damages) or remedies that may exist at law or in equity.

N. Limitation of Liability in Small Business Issuances. (1) For purposes of this Section 33N, unless the context otherwise requires, "small business issuer" means an issuer of securities that, at the time of an offer to which this Section 33N applies:

(a) has annual gross revenues in an amount that does not exceed $25 million; and

(b) does not have a class of equity securities registered, or required to be registered, with the Securities and Exchange Commission under Section 12 of the Securities Exchange Act of 1934, as amended (15 U.S.C. Section 78l).

(2) This Section 33N applies only to:

(a) an offer of securities made by a small business issuer or by the seller of securities of a small business issuer that is in an aggregate amount that does not exceed $5 million; and

(b) a person who has been engaged to provide services relating to an offer of securities described by Section 33N(2)(a), including an attorney, an accountant, a consultant, or the firm of the attorney, accountant, or consultant.

(3) The maximum amount that may be recovered against a person to which this Section 33N applies in any action or series of actions under Section 33 relating to an offer of securities to which this Section 33N applies is an amount equal to three times the fee paid by

the issuer or other seller to the person for the services related to the offer of securities, unless the trier of fact finds the person engaged in intentional wrongdoing in providing the services.

(4) A small business issuer making an offer of securities shall provide to the prospective buyer a written disclosure of the limitation of liability created by this Section 33N and shall receive a signed acknowledgement that the disclosure was provided.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 33; Acts 1963, 58th Leg., p. 473, ch. 170, Sec. 12.
Amended by Acts 1977, 65th Leg., p. 344, ch. 170, Sec. 1, eff. Aug. 29, 1977; Subsec. A(2) amended by Acts 1979, 66th Leg., p. 361, ch. 160, Sec. 8, eff. May 15, 1979; Subsec. N added by Acts 1997, 75th Leg., ch. 638, Sec. 1, eff. Sept. 1, 1997; Art. heading amended by Acts 2001, 77th Leg., ch. 1091, Sec. 3.14, eff. Sept. 1, 2001; Subsec. A amended by Acts 2001, 77th Leg., ch. 1091, Sec. 3.16, eff. Sept. 1, 2001; Subsec. D amended by Acts 2001, 77th Leg., ch. 1091, Sec. 3.17, eff. Sept. 1, 2001; Subsec. L amended by Acts 2001, 77th Leg., ch. 1091, Sec. 3.15, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-33-1. CIVIL LIABILITY OF INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES. A. Liability of Investment Advisers and Investment Adviser Representatives. (1) An investment adviser or investment adviser representative who renders services as an investment adviser in violation of Section 12 or an order under Section 23B or 23-2 of this Act is liable to the purchaser, who may sue at law or in equity, for damages in the amount of any consideration paid for the services.

(2) Except as provided by Subsection C of this section, an investment adviser or investment adviser representative who commits fraud or engages in a fraudulent practice in rendering services as an investment adviser is liable to the purchaser, who may sue at law or in equity, for damages.

B. Damages. In damages under Subsection A(2) of this section, the purchaser is entitled to recover:

(1) the amount of any consideration paid for the services, less the amount of any income the purchaser received from acting on the services;

(2) any loss incurred by the person in acting on the services provided by the adviser or representative;

(3) interest at the legal rate for judgments accruing from the date of the payment of consideration; and

(4) to the extent the court considers equitable, court costs and reasonable attorney's fees.

C. Untruth or Omission. An investment adviser or investment adviser representative who in rendering services as an investment adviser makes a false statement of a material fact or omits to state a material fact necessary in order to make the statement made, in light of the circumstances under which the statement is made, not misleading, may not be found liable under Subsection A(2) of this section if the adviser or representative proves:

(1) the purchaser knew of the truth or omission; or

(2) the adviser or representative did not know, and in the exercise of reasonable care could not have known, of the untruth or omission.

D. Statute of Limitations. (1) A person may not sue under Subsection A(1) of this section more than three years after the violation occurred.

(2) A person may not sue under Subsection A(2) of this section more than five years after the violation occurs or more than three years after the person knew or should have known, by the exercise of reasonable diligence, of the occurrence of the violation.

E. Liability of Control Persons and Assistants. (1) A person who directly or indirectly controls an investment adviser is jointly and severally liable with the investment adviser under this section, and to the same extent as the investment adviser, unless the controlling person sustains the burden of proof that the person did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which liability is alleged to exist.

(2) A person who directly or indirectly with intent to deceive or defraud or with reckless disregard for the truth or the law materially aids an investment adviser in conduct for which a cause of action is authorized by this section is jointly and severally liable with the investment adviser in an action to recover damages under this section.

F. A remedy provided by this section is not exclusive of any other applicable remedy provided by law.

Added by Acts 2001, 77th Leg., ch. 1091, Sec. 3.18, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-33-2. STAY OF RECOGNITION OR ENFORCEMENT OF FOREIGN COUNTRY JUDGMENT. (a) Prior to a court's recognition or enforcement of a foreign country judgment under Chapter 36, Civil Practice and Remedies Code, or otherwise, a party against whom recognition or enforcement of a foreign country judgment is sought is entitled to de novo review by a court in this state to determine whether a party, its successors, assigns, agents, or representatives seeking recognition or enforcement of a foreign country judgment has violated this Act or Chapter 17, Business & Commerce Code.

(b) A party seeking de novo review under this section must file with the court a verified pleading asserting a violation of this Act or Chapter 17, Business & Commerce Code, not later than the 30th day after the date of service of the notice of filing of a foreign country judgment with the court for recognition or enforcement.

(c) A pleading filed in accordance with Subsection (b) operates as a stay of the commencement or continuation of a proceeding to recognize or enforce a foreign country judgment. The stay shall continue until the court completes its de novo review under this section and renders a final judgment.

(d) A finding by a court of a violation of this Act or Chapter 17, Business & Commerce Code, is a sufficient ground for nonrecognition of a foreign country judgment.

(e) This section applies to a foreign country judgment involving a contract or agreement for a sale, offer for sale, or sell as defined by this Act, or investment, that imposes an obligation of indemnification or liquidated damages upon a Texas resident.

Added by Acts 2011, 82nd Leg., R.S., Ch. 346 (H.B. 3174), Sec. 1, eff. June 17, 2011.

Text of article effective until January 1, 2022

Art. 581-34. ACTIONS FOR COMMISSION; ALLEGATIONS AND PROOF OF COMPLIANCE. No person or company shall bring or maintain any action in the courts of this state for collection of a commission or

compensation for services rendered in the sale or purchase of securities, as that term is defined in this Act, without alleging and proving that such person or company was duly registered under the provisions of this Act (or duly exempt from such registration pursuant to rules adopted under Section 12C of this Act) and the securities so sold were duly registered under the provisions of this Act at the time the alleged cause of action arose; provided, however, that this section shall not apply to any company or person that rendered services in connection with any transaction exempted by Section 5 of this Act or by any rule promulgated by the Board pursuant to Subsection T of Section 5 of this Act if the company or person was not required to be registered by the terms of the exemption.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 34.
Amended by Acts 1975, 64th Leg., p. 206, ch. 78, Sec. 3, eff. Sept. 1, 1975; Acts 1995, 74th Leg., ch. 228, Sec. 17, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1091, Sec. 2.19, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-35. FEES. A. The Board shall establish the following fees in amounts so that the aggregate amount that exceeds the amount of the fees on September 1, 2002, produces sufficient revenue to cover the costs of administering and enforcing this Act:

(1) for the filing of any original, amended, or renewal application to sell or dispose of securities, an amount not to exceed $100;

(2) for the filing of any original application of a dealer or investment adviser or for the submission of a notice filing for a federal covered investment adviser, an amount not to exceed $100;

(3) for the filing of any renewal application of a dealer or investment adviser or for the submission of a renewal notice filing for a federal covered investment adviser, an amount not to exceed $100;

(4) for the filing of any original application for each agent, officer, or investment adviser representative or for the submission of a notice filing for each representative of a federal covered investment adviser, an amount not to exceed $100; and

(5) for the filing of any renewal application for each agent,

officer, or investment adviser representative or for the submission of a renewal notice filing for each representative of a federal covered investment adviser, an amount not to exceed $100.

B. The Commissioner or Board shall charge and collect the following fees and shall daily pay all fees received into the State Treasury:

(1) for any filing to amend the registration certificate of a dealer or investment adviser or evidence of registration of an agent or investment adviser representative, or issue a duplicate certificate or evidence of registration, $25;

(2) for the examination of any original or amended application filed under Subsection A, B, or C of Section 7 of this Act, regardless of whether the application is denied, abandoned, withdrawn, or approved, a fee of one-tenth (1/10) of one percent (1%) of the aggregate amount of securities described and proposed to be sold to persons located within this state based upon the price at which such securities are to be offered to the public;

(3) for certified copies of any papers filed in the office of the Commissioner, the Commissioner shall charge such fees as are reasonably related to costs; however, in no event shall such fees be more than those which the Secretary of State is authorized to charge in similar cases;

(4) for the filing of any application for approval of a stock exchange so that securities fully listed thereon will be exempt, a fee of $10,000;

(5) for the filing of a request to take the Texas Securities Law Examination, $35;

(6) for the filing of an initial notice required by the Commissioner to claim a secondary trading exemption, a fee of $500, and for the filing of a secondary trading exemption renewal notice, a fee of $500;

(7) for the filing of an initial notice required by the Commissioner to claim a limited offering exemption, a fee of one-tenth (1/10) of one percent (1%) of the aggregate amount of securities described as being offered for sale, but in no case more than $500; and

(8) for an interpretation by the Board's general counsel of this Act or a rule adopted under this Act, a fee of $100, except that an officer or employee of a governmental entity and the entity that the officer or employee represents are exempt from the fee under this

subsection when the officer or employee is conducting official business of the entity.

C. Subject to Subsection A of this section, the Board shall set a fee under this section in an amount that is reasonable and necessary to defray costs.

D. A cost incurred by the Board in administering this Act may be paid only from a fee collected under Subsection A of this section.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 35. Amended by Acts 1959, 56th Leg., p. 982, ch. 457, Sec. 1.
Amended by Acts 1977, 65th Leg., p. 875, ch. 327, Sec. 7, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 2688, ch. 465, Sec. 1, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5220, ch. 953, Sec. 3, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 239, Sec. 81, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 732, Sec. 3, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 733, Sec. 11, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 9.16, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1091, Sec. 2.20, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1077, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 772 (H.B. 1535), Sec. 7, eff. September 1, 2019.

Text of article effective until January 1, 2022

Art. 581-35-1. FEES FOR SALES OF EXCESS SECURITIES. A. An offeror who sells securities in this State in excess of the aggregate amount of securities registered for the offering may apply to register the excess securities by paying three times the difference between the initial fee paid and the fee required under Subsection B(2) of Section 35, plus, if the registration is no longer in effect, interest on that amount computed at the rate provided by Section 302.002, Finance Code, from the date the registration was no longer in effect until the date the subsequent application is filed, for the securities sold to persons within this State, plus the amendment fee prescribed by Subsection A(1) of Section 35. Registration of the excess securities, if granted, shall be effective retroactively to the effective date of the initial registration for the offering.

B. An offeror who has filed a notice to claim a limited offering exemption, who paid less than the maximum fee prescribed in

Subsection B(7) of Section 35, and who offered a greater amount of securities in the offering than authorized pursuant to the formula prescribed in Subsection B(7) of Section 35, may file an amended notice disclosing the amount of securities offered and paying three times the difference between the fee initially paid and the fee which should have been paid, plus interest on that amount computed at the rate provided by Section 302.002, Finance Code, from the date the original notice was received by the Commissioner until the date the amended notice is received by the Commissioner. The amended notice shall be retroactive to the date of the initial filing.

Added by Acts 1979, 66th Leg., p. 361, ch. 160, Sec. 9, eff. May 15, 1979. Amended by Acts 1987, 70th Leg., ch. 732, Sec. 4, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 733, Sec. 12, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1396, Sec. 40, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.97, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1077, Sec. 2, eff. June 20, 2003.

Text of article effective until January 1, 2022

Art. 581-35-2. FEES FOR SALES OF UNREGISTERED SECURITIES. If, after notice and hearing, the commissioner or any court of competent jurisdiction finds that an offeror has sold securities in this State pursuant to an offering no part of which has been registered under Section 7 or 10 of this Act and for which the transactions or securities are not exempt under Section 5 or 6 of this Act, the commissioner or said court may impose a fee equal to six times the amount that would have been paid if the issuer had filed an application to register the securities and paid the fee prescribed by Subsection B(2) of Section 35 based on the aggregate amount of sales made in this State within the prior three years, plus interest on that amount at the rate provided by Section 302.002, Finance Code, from the date of the first such sale made in this State until the date the fee is paid. The payment of the fee prescribed by this Section does not effect registration of the securities or affect the application of any other Section of this Act. The payment of the fee prescribed by this Section is not an admission that the transactions or securities were not exempt and is not admissible as evidence in a suit or proceeding for failure to register the securities.

Added by Acts 1989, 71st Leg., ch. 733, Sec. 13, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1396, Sec. 41, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.98, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1077, Sec. 3, eff. June 20, 2003.

Text of article effective until January 1, 2022

Art. 581-36. DEPOSIT TO GENERAL REVENUE FUND. Upon and after the effective date of this Act all moneys received from fees, assessments, or charges under this Act shall be paid by the Commissioner or Board into the General Revenue Fund. If the Commissioner or Board determines that all or part of a registration fee should be refunded, the Commissioner may make the refund by warrant on the State Treasury from funds appropriated from the General Revenue Fund for that purpose.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 36.
Amended by Acts 1983, 68th Leg., p. 2688, ch. 465, Sec. 1, eff. Sept. 1, 1983.

Text of article effective until January 1, 2022

Art. 581-37. PLEADING EXEMPTIONS. It shall not be necessary to negative any of the exemptions in this Act in any complaint, information or indictment, or any writ or proceeding laid or brought under this Act; and the burden of proof of any such exemption shall be upon the party claiming the same.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 37.

Text of article effective until January 1, 2022

Art. 581-38. PARTIAL INVALIDITY; SEVERABILITY. The provisions of this Act are severable, and in the event that any provision thereof should be declared void or unconstitutional, it is hereby declared that the remaining provisions would have been enacted notwithstanding such judicial determination of the invalidity of any particular provision or provisions in any respect, and said sections shall remain in full force and effect.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 38.

Text of article effective until January 1, 2022

Art. 581-39. REPEAL OF SECURITIES ACT AND INSURANCE SECURITIES ACT NOW IN EFFECT; SAVING CLAUSE AS TO PENDING PROCEEDINGS. The Acts now in effect being currently known as the Securities Act of Texas and the Insurance Securities Act of Texas, as embraced in Senate Bill No. 149, Chapter 67, and House Bill No. 39, Chapter 384, Acts of the 54th Legislature, 1955, and codified as Articles 579 and 580 of Vernon's Civil Statutes of Texas, be and the same are hereby repealed; provided, however, that all permits, orders, and licenses issued by the Secretary of State or Board of Insurance Commissioners pursuant to said laws prior to the effective date of this Act shall be valid during the period for which they were issued unless sooner revoked by the Commissioner for any cause for which the Commissioner is authorized by this Act to revoke hereunder; provided further, that all prosecutions and legal or other proceedings begun, and any violation of law whether prosecution or administrative action is commenced or not, and any cause of action of civil or criminal nature existing under the provisions of that law now in effect, shall continue in effect and remain in full force and effect until terminated as under the terms of the law now in force, notwithstanding the passage of this Act.

Acts 1957, 55th Leg., p. 575, ch. 269, Sec. 39.

Text of article effective until January 1, 2022

Art. 581-42. REDUCED FEES. A. The Board by rule may adopt reduced fees, under Sections 35 and 41 of this Act, for original and renewal applications of dealers, agents, officers, investment advisers, or investment adviser representatives who have assumed inactive status as defined by the Board.

B. The Board by rule may adopt reduced fees, under Sections 35 and 41 of this Act, as appropriate to accommodate a small business required by this Act to register in two or more of the following capacities:

(1) dealer;

(2) agent;

(3) investment adviser;
(4) investment adviser representative; or
(5) officer.

C. Notwithstanding Sections 35 and 41 of this Act, a person shall pay only one fee required under those sections to engage in business in this state concurrently for the same person or company as:

(1) a dealer and an investment adviser; or
(2) an agent and investment adviser representative.

Added by Acts 1995, 74th Leg., ch. 228, Sec. 18, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1091, Sec. 2.22, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-43. INVESTOR EDUCATION. A. The Commissioner, with Board approval, shall develop and implement investor education initiatives to inform the public about the basics of investing in securities, with a special emphasis placed on the prevention and detection of securities fraud. Materials developed for and distributed as part of the initiatives must be published in both Spanish and English.

B. In developing and implementing the initiatives, the Commissioner shall use the Commissioner's best efforts to collaborate with public or nonprofit entities with an interest in investor education.

C. Subject to Chapter 575, Government Code, the Commissioner may accept grants and donations from a person who is not affiliated with the securities industry or from a nonprofit association, regardless of whether the entity is affiliated with the securities industry, for use in providing investor education initiatives.

Added by Acts 2001, 77th Leg., ch. 1091, Sec. 1.03, eff. Sept. 1, 2001.

Text of article effective until January 1, 2022

Art. 581-44. CROWDFUNDING. (a) The Board shall adopt rules to regulate and facilitate online intrastate crowdfunding applicable to

authorized small business development entities. The Board may create other requirements necessary to carry out this section.

(b) The rules for authorized small business development entities must:

(1) allow authorized small business development entities to list on their web portals offerings of securities by issuers in which they are financially interested;

(2) allow authorized small business development entities and their portals to list offerings of securities without offering investment advice;

(3) allow authorized small business development entities to subcontract the operations of a crowdfunding web portal to a third party as permitted by Board rule; and

(4) limit the offerings of securities on an authorized small business development entity's web portal to securities of issuers located within the service area of the authorized small business development entity.

(c) In this section, "authorized small business development entity" means:

(1) a Type A corporation authorized under Chapter 504, Local Government Code;

(2) a Type B corporation authorized under Chapter 505, Local Government Code;

(3) a nonprofit organization authorized by an agency or authority of the federal government to distribute housing and community development block grants;

(4) a municipal corporation;

(5) the Texas Veterans Commission; or

(6) a nonprofit community development financial institution certified by the Community Development Financial Institutions Fund.

Added by Acts 2015, 84th Leg., R.S., Ch. 652 (H.B. 1629), Sec. 1, eff. September 1, 2015.

Text of article effective until January 1, 2022

Art. 581-45. PROTECTION OF VULNERABLE ADULTS FROM FINANCIAL EXPLOITATION. A. In this section:

(1) "Department" means the Department of Family and Protective Services.

(2) "Exploitation," "financial exploitation," and "vulnerable adult" have the meanings assigned by Section 281.001, Finance Code.

(3) "Securities professional" means an agent, an investment adviser representative, or a person who serves in a supervisory or compliance capacity for a dealer or investment adviser.

B. If a securities professional or a person serving in a legal capacity for a dealer or investment adviser has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the dealer or investment adviser has occurred, is occurring, or has been attempted, the securities professional or person serving in a legal capacity for the dealer or investment adviser shall notify the dealer or investment adviser of the suspected financial exploitation.

C. If a dealer or investment adviser is notified of suspected financial exploitation under Subsection B of this section or otherwise has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the dealer or investment adviser has occurred, is occurring, or has been attempted, the dealer or investment adviser shall assess the suspected financial exploitation and submit a report to the Securities Commissioner, in accordance with rules adopted under Subsection N of this section, and the department in the same manner as and containing the same information required to be included in a report under Section 48.051, Human Resources Code. The dealer or investment adviser shall submit the reports required by this subsection not later than the earlier of:

(1) the date the dealer or investment adviser completes the dealer's or investment adviser's assessment of the suspected financial exploitation; or

(2) the fifth business day after the date the dealer or investment adviser is notified of the suspected financial exploitation under Subsection B of this section or otherwise has cause to believe that the suspected financial exploitation has occurred, is occurring, or has been attempted.

D. A dealer or investment adviser who submits a report to the department of suspected financial exploitation of a vulnerable adult under Subsection C of this section is not required to make an additional report of suspected abuse, neglect, or exploitation under Section 48.051, Human Resources Code, for the same conduct

constituting the reported suspected financial exploitation.

E. Each dealer and investment adviser shall adopt internal policies, programs, plans, or procedures for the securities professionals or persons serving in a legal capacity for the dealer or investment adviser to make the notification required under Subsection B of this section and for the dealer or investment adviser to conduct the assessment and submit the reports required under Subsection C of this section. The policies, programs, plans, or procedures adopted under this subsection may authorize the dealer or investment adviser to report the suspected financial exploitation to other appropriate agencies and entities in addition to the Securities Commissioner and the department, including the attorney general, the Federal Trade Commission, and the appropriate law enforcement agency.

F. If a dealer or investment adviser submits reports of suspected financial exploitation of a vulnerable adult to the Securities Commissioner and the department under Subsection C of this section, the dealer or investment adviser may at the time the dealer or investment adviser submits the reports also notify a third party reasonably associated with the vulnerable adult of the suspected financial exploitation, unless the dealer or investment adviser suspects the third party of financial exploitation of the vulnerable adult.

G. Notwithstanding any other law, if a dealer or investment adviser submits reports of suspected financial exploitation of a vulnerable adult to the Securities Commissioner and the department under Subsection C of this section, the dealer or investment adviser:

(1) may place a hold on any transaction that:

(A) involves an account of the vulnerable adult; and

(B) the dealer or investment adviser has cause to believe is related to the suspected financial exploitation; and

(2) must place a hold on any transaction involving an account of the vulnerable adult if the hold is requested by the Securities Commissioner, the department, or a law enforcement agency.

H. Subject to Subsection I of this section, a hold placed on any transaction under Subsection G of this section expires on the 10th business day after the date the dealer or investment adviser submits the reports under Subsection C of this section.

I. A dealer or investment adviser may extend a hold placed on any transaction under Subsection G of this section for a period not to exceed 30 business days after the expiration of the period

prescribed by Subsection H of this section if requested by a state or federal agency or a law enforcement agency investigating the suspected financial exploitation. The dealer or investment adviser may also petition a court to extend a hold placed on any transaction under Subsection G of this section beyond the period prescribed by Subsection H of this section. A court may enter an order extending or shortening a hold or providing other relief.

J. Each dealer and investment adviser shall adopt internal policies, programs, plans, or procedures for placing a hold on a transaction involving an account of a vulnerable adult under Subsection G of this section.

K. A securities professional or person serving in a legal capacity for a dealer or investment adviser who makes a notification under Subsection B of this section, a dealer or investment adviser that submits a report under Subsection C of this section or makes a notification to a third party under Subsection F of this section, or a securities professional or person serving in a legal capacity who or dealer or investment adviser that testifies or otherwise participates in a judicial proceeding arising from a notification or report is immune from any civil or criminal liability arising from the notification, report, testimony, or participation in the judicial proceeding, unless the securities professional, person serving in a legal capacity for the dealer or investment adviser, or dealer or investment adviser acted in bad faith or with a malicious purpose.

L. A dealer or investment adviser that in good faith and with the exercise of reasonable care places or does not place a hold on any transaction under Subsection G(1) of this section is immune from civil or criminal liability or disciplinary action resulting from the action or failure to act.

M. To the extent permitted by state or federal law, a dealer or investment adviser, on request, shall provide access to or copies of records relevant to the suspected financial exploitation of a vulnerable adult to the Securities Commissioner, the department, a law enforcement agency, or a prosecuting attorney's office, either as part of a report to the Securities Commissioner, department, law enforcement agency, or prosecuting attorney's office or at the request of the Securities Commissioner, department, law enforcement agency, or prosecuting attorney's office in accordance with an investigation.

N. The Board by rule shall prescribe the form and content of

the report required to be submitted by a dealer or investment adviser to the Securities Commissioner under Subsection C of this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 376 (H.B. 3921), Sec. 2, eff. September 1, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.002(24), eff. September 1, 2019.

TITLE 20A. BOARD AND DEPARTMENT OF PUBLIC WELFARE
TITLE 22. BONDS--COUNTY, MUNICIPAL, ETC.
CHAPTER 1. GENERAL PROVISIONS AND REGULATIONS
CHAPTER 8. SINKING FUNDS--INVESTMENTS, ETC.

Art. 842. FEDERAL FARM LOAN BONDS. All bonds issued under and by virtue of the Federal Farm Loan Act, approved by the President of the United States, July 17, 1916, and all consolidated bonds, bonds, debentures, and other similar obligations issued by virtue of the Farm Credit Act of 1971, P.L. 92-181, approved by the President of the United States, December 10, 1971, and as thereafter amended, shall be a lawful investment for all fiduciary and trust funds in this State, and may be accepted as security for all public deposits where deposits of bonds or mortgages are authorized by law to be accepted. Such bonds shall be lawful investments for all funds which may be lawfully invested by guardians, administrators, trustees and receivers, for saving departments of banks incorporated under the laws of Texas, for banks, savings banks and trust companies chartered under the laws of Texas, and for all insurance companies chartered or transacting business under the laws of Texas, where investments are required or permitted by the laws of this State.

Acts 1917, p. 122.
Amended by Acts 1973, 63rd Leg., p. 1252, ch. 455, Sec. 1, eff. June 14, 1973.

Art. 842a. SECURITIES ISSUED BY FEDERAL AGENCIES; TEXAS SECURITIES; INVESTMENTS. Hereafter, all mortgages, bonds, debentures, notes, collateral trust certificates, and other such evidences of indebtedness, issued or that hereafter may be issued under the terms and provisions of the National Housing Act, approved

by the President of the United States on June 27, 1934, as amended and as may hereafter be amended, and all "insured accounts" issued or that may hereafter be issued by any institution insured under the provisions of Title IV of the National Housing Act, approved June 27, 1934, as amended and as may hereafter be amended, or any evidences of indebtedness or accounts that may be issued or insured by any lawful agency created thereunder, all mortgages, bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended, debentures, notes, collateral trust certificates, or other such evidences of indebtedness, which have been or which may hereafter be issued by the Federal Home Loan Bank Board, or any Federal Home Loan Bank, or the Home Owners' Loan Corporation, or by the Federal Savings and Loan Insurance Corporation, or by the Federal Farm Loan Board, or by any Federal Land Bank, the Federal Intermediate Credit Banks, or Banks for Cooperatives, or by any National Mortgage Association, or by any entity, corporation or agency, which has been or which may be created by or authorized by any Act, which has been enacted or which may hereafter be enacted by the Congress of the United States, or by any amendment thereto, which has for its purpose the relief of, refinancing of or assistance to owners of mortgaged or incumbered homes, farms, and other real estate, and the improvement or financing or the making of loans on any real property, shall hereafter be lawful investments for all fiduciary and trust funds in this State, and may be accepted as security for all public deposits where deposits of bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended, or mortgages are authorized by law to be accepted. Such mortgages, bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended, debentures, notes, collateral trust certificates and other such evidences of indebtedness, insured accounts shall be lawful investments for all funds which may be lawfully invested by guardians, administrators, trustees, and receivers, for building and loan associations, savings departments of banks, incorporated under the laws of Texas, for banks, savings banks and trust companies, chartered under the laws of Texas, and all insurance companies of every kind and character, chartered or transacting business under the laws of Texas, where investments are required or permitted by the laws of this State; providing further that where such mortgages, bonds, consolidated bonds issued under the Farm Credit Act of 1971,

P.L. 92-181, and as thereafter amended, debentures, notes, collateral trust certificates, and other such evidences of indebtedness are issued against and secured by promissory notes, or other obligations, the payment of which is secured in whole or in part, by mortgage, deed of trust, or other valid first lien upon real estate situated in Texas, or where such mortgages, bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended, debentures, notes, collateral trust certificates, or other such evidences of indebtedness are acquired, directly or indirectly, in exchange for or in substitution of notes, or other obligations, secured by mortgage, deed of trust, or other valid first lien upon real estate situated in Texas, or where such "insured accounts" are issued by building and loan associations chartered under the laws of Texas or by Federal Savings and Loan Associations domiciled in Texas, then such mortgages, bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended, debentures, notes, collateral trust certificates or other such evidences of indebtedness, "insured accounts," so issued and so secured, or so acquired or insured, shall be regarded for investment purposes by insurance companies as "Texas Securities," within the meaning of the laws of Texas governing such investments.

The provisions of this Act shall be cumulative of all other provisions of the Civil Statutes of the State of Texas, affecting the investment of funds or moneys by fiduciaries, guardians, administrators, trustees and receivers, building and loan associations, savings departments of banks, incorporated and doing business under the laws of Texas, commercial banks, savings banks and trust companies, chartered and doing business under the laws of Texas, insurance companies of any kind and character, chartered and transacting business under the laws of Texas, and all corporate creatures, organized and doing business under the laws of Texas.

It is hereby declared to be the legislative intent to enact a separate provision of this Act independent of all other provisions, and the fact that any phrase, sentence, or clause of this Act shall be declared unconstitutional, shall in no event affect the validity of any of the provisions hereof.

Acts 1933, 43rd Leg., p. 406, ch. 160, Sec. 1. Amended by Acts 1935, 44th Leg., p. 33, ch. 12, Sec. 1; Acts 1935, 44th Leg., p. 90, ch. 31, Sec. 1; Acts 1941, 47th Leg., p. 1356, ch. 618, Sec. 1; Acts

1961, 57th Leg., p. 1119, ch. 507, Sec. 1.
Amended by Acts 1973, 63rd Leg., p. 1252, ch. 455, Sec. 2, eff. June 14, 1973.

Art. 842a-1. OBLIGATIONS WHOLLY OR PARTLY INSURED BY UNITED STATES OR STATE, INVESTMENT IN. Savings and loan associations, banks, insurance companies, and other corporations or other organizations, similar or dissimilar, are hereby authorized to lend, and to buy and sell for their own account, obligations in which except as to value of property and dignity of lien thereon securing the obligation it is otherwise lawful for such investor to invest its own funds, (by direct loan or by purchase), if the entire amount of the indebtedness is insured or guaranteed in any manner by the United States or by this State; or, if not so wholly insured or guaranteed, the difference between the entire amount of the indebtedness and that portion thereof insured or guaranteed by the United States or by this State, does not exceed the amount permissible under the law of this State, and meets the requirements thereof as to value of property and dignity of lien thereon, provided; further authorizing that any such lender may make an unsecured loan not exceeding Five Hundred Dollars ($500), if at least one-half thereof is guaranteed pursuant to the Servicemen's Readjustment Act of 1944.

Acts 1945, 49th Leg., p. 315, ch. 230, Sec. 1.

TITLE 28. CITIES, TOWNS AND VILLAGES
CHAPTER 1. CITIES AND TOWNS

Art. 974d-41. VALIDATION OF GOVERNMENTAL ACTS AND PROCEEDINGS OF MUNICIPALITIES OF MORE THAN 1.5 MILLION.

Sec. 1. APPLICATION. This article applies to any municipality having a population of 1.5 million or more.

Sec. 2. PROCEEDINGS VALIDATED. The governmental acts and proceedings of a municipality relating to a bond election that was held before December 1, 1991, and at which the ballot proposition was approved by more than 60 percent of the voters voting on the proposition are validated as of the dates they occurred. The validation includes the preparation and wording of the ballot

proposition, any action taken by the municipality in calling and holding the bond election, and any other action taken by the municipality before the effective date of this article in connection with the issuance of any bonds approved in the bond election. The acts and proceedings may not be held invalid because they were not performed in accordance with law. A municipality may take any further action or conduct any further proceeding necessary to complete the issuance of the bonds approved at the bond election, and, when issued, the bonds are valid and binding obligations of the municipality in accordance with the terms of the bonds.

Sec. 3. EFFECT ON LITIGATION. This article does not apply to any matter that on the effective date of this article has been held invalid by a final judgment of a court of competent jurisdiction.

Sec. 4. RECOMMENDATION. The legislature recommends to the governing body of a municipality that it adopt the aggregate goals for the municipality's contracting with minority and women enterprises set forth in the June 1992, report of Texas Southern University as specified for the categories of construction, procurement, and professional services. A cause of action may not be maintained to enforce this section or to recover damages based on the failure of the municipality to follow the recommendation of this section.

Sec. 5. CONDITIONS AFFECTING EXPENDITURE OF BOND PROCEEDS. (a) Expenditures of the bond proceeds by the municipality shall:

(1) be made in accordance with the covenants of all ordinances enacted by the municipality before the bond election approving the bonds;

(2) benefit the residents of the municipality so that the benefits or expenditures, if feasible, reflect the demographic makeup of the municipality; and

(3) to the extent the proceeds are designated for housing in the municipality's bond proposition, be made for construction and rehabilitation of housing and all matters incidental to housing construction and rehabilitation on-site.

(b) This section applies cumulatively to the entire bond authorization, rather than to individual bond issues or contracts for the expenditure of the proceeds, and the municipality's governing body is responsible for making decisions on individual bond issues and contracts.

Added by Acts 1993, 73rd Leg., ch. 6, Sec. 2, eff. March 8, 1993.

CHAPTER 21. HOUSING

Art. 1269k-1. BONDS OR OTHER OBLIGATIONS OF HOUSING AUTHORITIES AS LEGAL INVESTMENTS AND SECURITY.

Section 1. AUTHORIZATION; PURPOSE. Notwithstanding any restrictions on investments contained in any laws of this State, the State and all public officers, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or other obligations issued by a housing authority pursuant to the Housing Authorities Law (Chapter 462, Regular Session of the 45th Legislature, as amended by House Bill No. 102, 2nd Called Session of the 45th Legislature, and amendments thereto) or issued by any public housing authority or agency in the United States, when such bonds or other obligations are secured by a pledge of annual contributions to be paid by the United States Government or any agency thereof, or secured or guaranteed by a pledge of the full faith and credit of the United States Government or any agency thereof, and such bonds and other obligations shall be authorized security for all public deposits; it being the purpose of this Act to authorize all persons, firms, corporations, associations, political subdivisions, bodies and officers, public or private, to use any funds owned or controlled by them, including, but not limited to, sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations; provided, however, that nothing contained in this Act shall be construed as relieving any person, firm, or corporation from any duty of exercising reasonable care in selecting securities.

Sec. 2. [Repeals art. 1269k, Sec. 14-A].

Sec. 3. SEVERABILITY. Notwithstanding any other evidence of

legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of this Act, or the application thereof to any person or circumstances, are held invalid the remainder of the Act and the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Sec. 4. ACT CONTROLLING. In so far as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

Acts 1939, 46th Leg., p. 427.
Sec. 1 amended by Acts 1971, 62nd Leg., p. 2367, ch. 729, Sec. 1, eff. June 8, 1971.

TITLE 32. CORPORATIONS
CHAPTER 10. PUBLIC UTILITIES

Art. 1446a. DISRUPTION OF GAS, ELECTRIC OR WATER SERVICE BY PICKETING, THREATS OR INTIMIDATION.

Sec. 1. Repealed by Acts 1997, 75th Leg., ch. 166, Sec. 9, eff. Sept. 1, 1997.

Sec. 2. DEFINITIONS. When used in this Act, the term "public utility" or "utility" shall mean and include the following:

(a) Any private corporation doing business in Texas, and having the right of eminent domain, and engaged in the business of generating, transmitting or distributing electric energy to the public; or

(b) Any private corporation doing business in Texas, and having the right of eminent domain, and engaged in the business of producing, transmitting, or distributing natural or artificial gas to the public; or

(c) Any private corporation doing business in Texas, and having the right of eminent domain, and engaged in the business of furnishing water to the public; or

(d) Any state agency, authority, subdivision or municipality engaged in the business of furnishing any of the above described services to the public.

Secs. 3, 4. Repealed by Acts 1997, 75th Leg., ch. 166, Sec. 9, eff. Sept. 1, 1997.

Sec. 5. SABOTAGE; PENALTY. Any person who shall wilfully damage or destroy any building, equipment, machinery or facility used in furnishing utility service by any utility as defined in Section 2 hereof, or who interferes with, or commits any act of sabotage affecting any machinery, equipment, or facilities of any such utility for the purpose of disrupting the service provided by such utility, or for the purpose of preventing the maintenance of such service, shall be guilty of a felony, and, upon conviction, shall be punished by confinement in the state penitentiary for not less than two (2) years, nor more than five (5) years.

The word "sabotage" as used in this Act shall be construed to include any intentional tampering with, obstructing, breaking, damaging, changing or in any way interfering with any building, machinery, structure, wires, poles, towers, pumps, pipe lines, meters, switches, transformers, or any other equipment or property of any sort used by a utility as defined herein in furnishing water, gas, or electric service.

Sec. 5-a. CONSPIRACY; PENALTY. If any two or more persons shall enter into any agreement, compact, or plan to violate any of the provisions of Section 5 of this Act, or any agreement, compact, or plan to persuade, induce or employ some person to violate the provisions of said section, every person participating in such agreement, compact or plan shall be guilty of a felony, and, upon conviction, shall be punished by confinement in the state penitentiary for not less than two (2) nor more than five (5) years. In order that such offense be complete, it shall not be necessary that an overt act be committed pursuant to such agreement, compact or plan. The provisions of this section shall be cumulative of other statutes relating to conspiracy.

Secs. 6 to 8. Repealed by Acts 1997, 75th Leg., ch. 166, Sec. 9, eff. Sept. 1, 1997.

Acts 1947, 50th Leg., p. 142, ch. 84, eff. Sept. 5, 1947.

CHAPTER 17. TRUST COMPANIES AND INVESTMENTS

Art. 1524b. HOUSING CORPORATIONS AUTHORIZED. Corporations may be formed wholly for the purpose of providing housing for families of low income and/or for reconstruction of slum areas, provided such corporations are regulated by state or municipal law, as hereinafter

provided as to rents, charges, capital structure, rate of return and areas and methods of operation.

Acts 1932, 42nd Leg., 3rd C.S., p. 107, ch. 42, Sec. 1.

Art. 1524c. APPLICATION FOR INCORPORATION. Applications for charters for corporations, the creation of which are authorized under the provisions of this Act, in addition to requirements now prescribed by law, must be accompanied by a certificate executed by the officials of the governing body of the municipality in which said corporation contemplate owning or operating any properties certifying that the capital structure thereof and the plans and specifications of the proposed building has the approval of such governing body, provided, that where said corporation contemplates the owning or operating of properties situated outside the corporate limits of any organized town, city or village, then the certification herein referred to shall be executed by the Commissioners' Court of any county in which it is contemplated to own and/or operate properties within the scope of this Act. Such certificate shall not be binding upon the Secretary of State who shall proceed to file or refuse to file the charter in accordance with the provisions of existing laws.

Acts 1932, 42nd Leg., 3rd C.S., p. 107, ch. 42, Sec. 2.

Art. 1524d. POWERS; FEES AND TAXES. Any corporation organized under the provisions of this Act shall have, except as herein provided, all the powers of private domestic corporations which have been heretofore organized under the provisions of the laws of the State of Texas, and shall pay all fees and taxes which are required to be paid by private domestic corporations organized and/or existing under the laws of the State of Texas.

Acts 1932, 42nd Leg., 3rd C.S., p. 107, ch. 42, Sec. 3.

Art. 1524e. REGULATION BY MUNICIPALITIES OR COUNTIES. The rents, charges, capital structure, rate of return and areas and method of operation of any corporation organized under the provisions of Section 1 hereof shall be regulated, as hereinafter provided, by

the governing body of any municipality or county where the properties to be owned or operated are situated outside the corporate limits of any organized town, city or village in which said corporation owns and operates any property. Should any such corporation own and operate properties in more than one municipality, the governing body of each municipality or county, where the properties to be owned or operated are situated outside the corporate limits of any organized town, city or village in which property of the corporation is situated, shall regulate in the manner prescribed by this Act the rents, charges, rate of return and area and method of operation of the property located within the territorial limits of such municipality or county, where the properties to be owned or operated are situated outside the corporate limits of any organized town, city or village, provided the governing body of a county shall not have the jurisdiction of regulation of property of such corporation situated within the corporate limits of a town, village, or city.

Acts 1932, 42nd Leg., 3rd C.S., p. 107, ch. 42, Sec. 4.

Art. 1524f. RATE OF RETURN RESTRICTED. The governing body fixing the rate of return for a corporation organized under the provisions of Section 1 of this Act shall not fix such rates of return to yield a net amount in excess of eight (8%) per cent upon the invested capital of such corporation.

Acts 1932, 42nd Leg., 3rd C.S., p. 107, ch. 42, Sec. 5.

Art. 1524g. RULES AND REGULATIONS TO BE PRESCRIBED AND PLANS APPROVED. Such governing body may establish rules and regulations governing its procedure for hearings in fixing or amending orders or ordinances fixing the rents, charges, rate of return and areas and methods of corporations organized under the provisions of Section 1 hereof, and before any building is erected by such corporation, the detailed plans and specifications thereof, must be approved by the governing body of the municipality or county, where the properties to be owned or operated are situated outside the corporate limits of any organized town, city or village in which such building is to be erected.

Acts 1932, 42nd Leg., 3rd C.S., p. 107, ch. 42, Sec. 6.

Art. 1524h. APPEAL FROM ORDER FIXING RATE OF RETURN. Any corporation organized and existing under and by virtue of provisions of Section 1 hereof, which shall be dissatisfied with any rents, charges, rate of return and area and method of operation which is fixed or may be fixed or may be changed by any governing body, may, by giving to such governing body ten (10) days notice by registered mail of its intention thereof, appeal to any district court of the county wherein the property which is affected is situated. The appeal shall be perfected by filing suit in the district court of the county in which the property is situated within ten (10) days after the giving of such notice, and the filing of such suit shall suspend the order, rule, regulation, or ordinance from which the appeal is perfected. The municipality or county, where the properties to be owned or operated are situated outside the corporate limits of any organized town, city or village shall be defendant in said suit. The trial shall be de novo, and Court, upon a hearing, shall, by its judgment, regulate the rents, charges, rate of return, areas and method of operation of the corporation.

Acts 1932, 42nd Leg., 3rd C.S., p. 107, ch. 42, Sec. 7.

Art. 1524i. LOANS FROM RECONSTRUCTION FINANCE CORPORATION. Any corporation created under the provisions of this Act, in addition to the powers herein granted, shall have full power and authority to do all things necessary to secure loans from the Reconstruction Finance Corporation under the rules and regulations prescribed by said Reconstruction Finance Corporation.

Acts 1932, 42nd Leg., 3rd C.S., p. 107, ch. 42, Sec. 8.

Art. 1524j. ANTI-TRUST LAWS NOT AFFECTED. Provided that nothing in this Act shall in anywise affect or nullify the Anti-trust laws of this State.

Acts 1932, 42nd Leg., 3rd C.S., p. 107, ch. 42, Sec. 9.

Art. 1524k. RESTRAINING VIOLATION OF ORDERS, RULES OR REGULATIONS; PUNISHMENT FOR VIOLATION OF INJUNCTION. If any agent, servant, officer or employee of any corporation created under the provisions of this Act shall wilfully violate any order, rule, regulation or ordinance fixing rents, charges, rate of return, areas and method of operation, the District Court of the County in which the property of such corporation is situated, upon application of the governing body of the municipality or county, where the properties to be owned or operated are situated outside the corporate limits of any organized town, city or village wherein the corporation owns property, may issue during its term or in vacation a temporary writ of injunction restraining such agents, servants, officers or employees from any violation of such order, rule, regulation or ordinance and which temporary writ of injunction may be made permanent upon notice and hearing in the manner now provided by law. No bond shall be required before issuing any such temporary or permanent injunction and if any such injunction is violated by the agents, servants, officers or employees of said corporation, the Court, in addition to its power to punish for contempt, may order that the building of such corporation shall not be used or occupied for any period not to exceed one year but the Court shall permit said building to be occupied or used if the owner, lessee, tenant or occupant thereof shall give bond with sufficient surety to be provided by the Court in the sum of not less than Five Hundred ($500.00) Dollars nor more than One Thousand ($1,000.00) Dollars, payable to the Judge of said Court, conditioned that said corporation, its agents, servants, officers or employees will thereafter comply with the orders, rules, regulations or ordinances which have been or may be promulgated, fixing the rents, charges, or rate of return, areas and methods of operation of said corporation and that it will pay all fines and costs that may be assessed in contempt proceedings against its agents, servants, officers and employees for the violation of any writ of injunction existing, or which may thereafter be issued.

Acts 1932, 42nd Leg., 3rd C.S., p. 107, ch. 42, Sec. 10. Amended by Acts 1989, 71st Leg., ch. 1039, Sec. 4.08, eff. Sept. 1, 1989.

CHAPTER 18. MISCELLANEOUS

TITLE 34. COUNTY FINANCES

Art. 1676a. AUDITORS IN CERTAIN COUNTIES: DUTIES, POWERS, REPORTS.

Sec. 1. In all counties having a County Auditor and containing a population of not less than seventy-five thousand (75,000), and not more than eighty thousand (80,000), as shown by the last preceding Federal Census, and in which there are Navigation Districts, Water Improvement Districts and Water Control and Improvement Districts, the County Auditor shall not exercise control over the finances and affairs of such Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts (or other districts created for improvement or conservation purposes, which are not administered by the Commissioners Court of such counties), but he shall annually, between July 1st and October 1st, carefully audit all books, accounts, records, bills and warrants of any such District for the year ending the 30th of June preceding, and file his report of such audit with the County Clerk of such county.

Sec. 2. The officers and directors of each such District shall, on or before the 10th of each month, make and file with the County Auditor a report in writing, authenticated by such officers and directors, showing the total amount of moneys collected for and expended from the various funds of such District for the calendar month next preceding.

Sec. 3. The method of audit hereby provided for Navigation Districts, Water Improvement Districts, Water Control and Improvement Districts, and all other Districts created for improvement and conservation purposes in counties containing a population of not less than seventy-five thousand (75,000), nor more than eighty thousand (80,000), as shown by the last preceding Federal Census, and not directly administered by the Commissioners Court of such counties, shall supersede all other provisions for auditing the receipts and expenditures of such districts otherwise prescribed by law, and all laws and parts of laws in conflict herewith are hereby repealed.

Sec. 4. Only the provisions of this Act and of Articles 1672 and 1673 shall apply in counties having a population of not less than seventy-five thousand (75,000), and not more than eighty thousand (80,000), according to the last preceding Federal Census, which contain Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts.

Sec. 5. If any provision of this Act is held to be unconstitutional or otherwise invalid, same shall not affect the validity of any other provision hereof.

Acts 1933, 43rd Leg., p. 306, ch. 118.

Art. 1676b. AUDITORS IN COUNTIES OF 83,000 TO 83,350 HAVING NAVIGATION DISTRICTS AND OTHER DISTRICTS.

Sec. 1. AUDIT; REPORT. In all counties having a County Auditor and containing a population of not less than eighty-three thousand (83,000) and not more than eighty-three thousand, three hundred and fifty (83,350), as shown by the last preceding Federal Census, and in which there are Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts, the County Auditor shall not exercise control over the finances and affairs of such Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts (or other districts created for improvement or conservation purposes, which are not administered by the Commissioners Courts of such counties), but he shall annually, between July 1st and October 1st, carefully audit all books, accounts, records, bills, and warrants of any such district for the year ending the 30th of June preceding, and file his report of such audit with the County Clerk of such county.

Sec. 2. MONTHLY REPORT. The officers and directors of each such district shall, on or before the 10th of each month, make and file with the County Auditor a report in writing, authenticated by such officers and directors, showing the total amount of moneys collected for and expended from the various funds of such district for the calendar month next preceding.

Sec. 3. OTHER LAWS SUPERSEDED--REPEAL. The method of audit hereby provided for Navigation Districts, Water Improvement Districts, Water Control and Improvement Districts, and all other districts created for improvement and conservation purposes in counties containing a population of not less than eighty-three thousand (83,000), nor more than eighty-three thousand, three hundred and fifty (83,350), as shown by the last preceding Federal Census, and not directly administered by the Commissioners Courts of such counties, shall supersede all other provisions for auditing the

receipts and expenditures of such districts otherwise prescribed by law, and all laws and parts of laws in conflict herewith are hereby repealed.

Sec. 4. EXCLUSIVENESS OF PROVISIONS. Only the provisions of this Act and of Articles 1667, 1672, and 1673 of the Revised Civil Statutes of Texas of 1925, shall apply in counties having a population of not less than eighty-three thousand (83,000), and not more than eighty-three thousand, three hundred and fifty (83,350), according to the last preceding Federal Census, which contain Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts.

Sec. 5. PARTIAL INVALIDITY. If any provision of this Act is held to be unconstitutional, or otherwise invalid, same shall not affect the validity of any other provision hereof.

Acts 1941, 47th Leg., p. 409, ch. 238.

Art. 1677. GOVERNMENTAL ACTS AND PROCEEDINGS OF COUNTIES AFFECTED BY HURRICANE IKE

Sec. 1. APPLICATION. This article applies to any county located in the Hurricane Ike disaster area, as defined by Section 704, Heartland Disaster Tax Relief Act of 2008 (Pub. L. No. 110-343).

Sec. 2. PROCEEDINGS VALIDATED. The governmental acts and proceedings of a county relating to a bond election that was held November 4, 2008, and at which the ballot proposition was approved by a majority of the voters voting on the proposition are validated as of the dates they occurred. The validation includes the preparation and wording of the ballot proposition, any action taken by the county in calling and holding the bond election, and any other action taken by the county before the effective date of this article in connection with the issuance of any bonds approved in the bond election. The acts and proceedings may not be held invalid because they were not performed in accordance with law. A county may take any further action or conduct any further proceeding necessary to complete the issuance of the bonds approved at the bond election, and, when issued, the bonds are valid and binding obligations of the county in accordance with the terms of the bonds.

Added by Acts 2009, 81st Leg., R.S., Ch. 991 (H.B. 3854), Sec. 2, eff.

June 19, 2009.

TITLE 44. COURTS--COMMISSIONERS

Art. 2353d. LOCAL OPTION ELECTIONS IN CERTAIN COUNTIES RESPECTING ANNUAL TAX FOR DOMESTIC LIVESTOCK PROTECTIVE FUND.

Sec. 1. ADDITIONAL ASSISTANCE TO LAW ENFORCEMENT OFFICERS. In all counties in this State having ten thousand (10,000) or more cattle, sheep, and goats rendered for taxation, the qualified voters of such county may, as hereinafter provided, employ additional assistance to the law enforcement officers of such county as hereinafter provided.

Upon the petition of ten (10) per cent of the qualified voters of such county, presented to the Commissioners Court in open Regular Session, requesting such Court to order an election to be held in such county to determine whether or not said Court, when acting as a Board of Equalization in such county, shall levy, and cause to be assessed and collected an annual tax not to exceed one (1) cent per head on all sheep and goats and not to exceed five (5) cents per head on all cattle, within such county; said Court shall order such election to be held within such county, in accordance with the petition therefor; and said Court shall forthwith order such election to be held in the voting places within such county, upon a day not less than ten (10), nor more than twenty (20) days, from the date of said order and the order thus made, shall express the object of such election and shall be held to be prima facie evidence that all the provisions necessary to give it validity have been duly complied with; and provided further that such Court shall appoint such officers to hold such election as is now required to hold general elections. The expenses of such election shall be borne by the county wherein such election is ordered and held. In such election so held, the ballot shall read as follows:

"For the levy, assessment, and collection of an annual tax on cattle, sheep, and goats."

"Against the levy, assessment, and collection of an annual tax on cattle, sheep, and goats."

Returns of such election shall be made by the presiding officer of the precincts of such county where such election is held, to the County Judge of said county, who shall forthwith call the

Commissioners Court together for the purpose of canvassing the returns; and if it shall be found by the Commissioners Court, upon a canvass of such returns, that a majority of the qualified voters of the county wherein such election is held, is in favor of the levy, assessment, and collection of the annual tax on sheep and goats of not more than one (1) cent per head and on cattle not more than five (5) cents per head, then said Court shall forthwith declare the results of said election and give public notice thereof by proclamation of said Court to be issued and posted at three (3) public places of the county in which such election is held; and shall thereafter, at the next succeeding meeting of said Court acting as the Board of Equalization for such county, levy and cause to be assessed and collected by the Assessor and Collector of Taxes for such county, not more than one (1) cent per head on all sheep and goats and not more than five (5) cents per head on all cattle within such county, on the 1st day of January preceding the date of such meeting.

Sec. 2. TAX MONEYS TO BE DEPOSITED IN DOMESTIC LIVESTOCK PROTECTIVE FUND. All moneys assessed and collected by the Assessor and Collector of Taxes for each county of this State as provided for in Section 1 hereof, shall be paid by said Collector unto the County Treasurer of such County, and said Treasurer shall deposit said moneys to a fund to be known as "The Domestic Livestock Protective Fund," and such moneys shall never be expended for any other purpose than is herein provided.

Sec. 3. EMPLOYMENT OF ENFORCEMENT OFFICERS BY COMMISSIONERS COURT; COMPENSATION; DUTIES; REPORTS. To aid in the enforcement of all the Penal Laws of this State and in ferreting out and detecting any violation thereof, it shall be the duty of the Commissioners Court of such county adopting the provisions hereof, and they are hereby authorized and required to employ for such service, in addition to the officers now provided for by law, as many other competent and discreet persons as, in the judgment of said Court, is deemed necessary for said purposes, and shall fix their compensation; provided however, no such person, or persons, shall be paid in excess of Five Dollars ($5) per day, while in actual service; and provided further that at no time, shall the moneys expended in the payment of such person, or persons, for such services, exceed the amount of money collected therefor. Such Court shall designate the duties to be performed by all such persons and shall require them to

make monthly reports in writing to said Court as to the manner in which they have performed such duties.

Acts 1937, 45th Leg., p. 831, ch. 408. Renumbered from art. 7155a by Acts 1981, 67th Leg., p. 1784, ch. 389, Sec. 38(d), eff. Jan. 1, 1982.

Art. 2372e. BUILDINGS FOR CANNERIES FOR UNEMPLOYMENT RELIEF.

Sec. 1. That County Commissioners Courts of this State be, and the same are hereby authorized to purchase materials for the purpose of aiding and cooperating with the agencies of the State and Federal Governments in the construction of buildings for the purpose of housing canneries and canning factories where appropriations have been or may hereafter be made out of the Federal and State Funds set aside for the relief of the unemployed and needy people in the State of Texas, and to pay for such materials out of the County's Permanent Improvement Fund.

Sec. 2. Nothing herein contained shall be construed as repealing or modifying any of the provisions of Chapter 163, General Laws, Regular Session, Forty-second Legislature (known as House Bill 312), nor as taking the provisions of this Act out of limitations of said Chapter 163.

Acts 1934, 43rd Leg., 4th C.S., p. 58, ch. 24.

TITLE 47. DEPOSITORIES

CHAPTER 2. COUNTY DEPOSITORIES

Art. 2548a. PLEDGE OF STATE GENERAL FUND WARRANTS AS SECURITY FOR DEPOSITED FUNDS OF COUNTY OR SCHOOL DISTRICT IN LIEU OF BONDS. Any banking corporation in the State of Texas selected as the depository bank for County Funds, or for the funds of any School District in Texas, including Common School Districts, Independent School Districts, Rural High School Districts, Consolidated School Districts, and any other School District in Texas, or funds of any State institution, shall be authorized to pledge General Fund Warrants of the State of Texas as securities for the purpose of securing such funds when, as otherwise provided by law, such banking corporations are authorized to pledge securities in lieu of personal

bonds or surety bonds for the purpose of securing such Funds; provided, however, this privilege shall cease and be null and void whenever the deficit in the General Fund shall exceed Forty-two Million ($42,000,000.00) Dollars.

Acts 1941, 47th Leg., p. 100, ch. 82, Sec. 1.

TITLE 49. EDUCATION--PUBLIC
CHAPTER 1. UNIVERSITY OF TEXAS

Art. 2603b-2. CONVEYANCE OF TRACT TO EL PASO COUNTY; STADIUM SITE; LEASE AGREEMENT.

Section 1. The Board of Regents of The University of Texas is hereby authorized and empowered to select a tract of land not exceeding sixty-five (65) acres upon the campus of Texas Western College, El Paso, El Paso County, Texas, a part of The University of Texas System, and to convey such tract so selected to the County of El Paso, Texas, as a stadium site upon which site will be erected and constructed a stadium, parking areas, access roads, and related facilities by the County of El Paso, Texas, at its expense, said conveyance to provide that title to said tract of land shall revert to the Board of Regents should such stadium be abandoned permanently, and said conveyance to contain such other considerations as may be mutually agreeable to the Board of Regents and the County of El Paso.

Sec. 2. The Board of Regents of The University of Texas is further authorized to contract with the County of El Paso for the leasing of the stadium to the Board of Regents of The University of Texas for the use and benefit of Texas Western College by the County of El Paso for a term of ninety-nine (99) years at a consideration of One Dollar ($1.00) per year, said lease to provide for a reservation of use by the County of El Paso for the staging of the Sun Bowl activities and such other considerations as may be mutually agreeable to the Board of Regents and the County of El Paso; said Board of Regents to grant easements to the County of El Paso for right-of-way for public ways as will provide adequate ingress and egress by the public in using said stadium.

Sec. 3. The Board of Regents of The University of Texas and the County of El Paso are hereby authorized to execute and deliver all instruments, including a deed of conveyance and a lease agreement,

and do all things necessary to carry out the purpose and intent of this law.

Acts 1961, 57th Leg., p. 23, ch. 13.

Art. 2603b-4. CONVEYANCE OF TRACT TO POLITICAL SUBDIVISIONS IN EL PASO COUNTY; SPECIAL EVENTS CENTER AND RELATED FACILITIES; JOINT USE; EASEMENTS.

Section 1. (a) The Board of Regents of The University of Texas System is hereby authorized to enter into a contract with any political subdivision of the State of Texas located in El Paso County for the conveyance to the political subdivision of a tract or tracts of land owned by The University of Texas at El Paso, a component institution of The University of Texas System, for the purpose of construction by the political subdivision at its own expense of a special events center and related facilities, including parking areas and access roads.

(b) The conveyance shall provide that title to the tract of land shall revert to the Board of Regents of The University of Texas System if the special events center and related facilities are abandoned permanently, and the conveyance shall contain such other consideration as may be mutually agreeable to the Board of Regents of The University of Texas System and the political subdivision.

Sec. 2. The Board of Regents of The University of Texas System is further authorized to contract with the political subdivision for the joint use of the special events center and related facilities by The University of Texas at El Paso and the political subdivision under terms and for considerations as may be mutually agreeable to the parties. The Board of Regents of The University of Texas System is further authorized to grant easements for rights-of-way to provide adequate ingress and egress by the public in using the special events center and related facilities.

Sec. 3. The Board of Regents of The University of Texas System and the political subdivision with whom the Board of Regents of The University of Texas System may contract are hereby authorized to execute and deliver all instruments, including a deed of conveyance and a contract of use, and do all things necessary to carry out the purpose and intent of this Act.

Acts 1967, 60th Leg., p. 1224, ch. 553, eff. Aug. 28, 1967. Amended by Acts 1971, 62nd Leg., p. 883, ch. 114, Sec. 1, eff. May 7, 1971.

Art. 2603i. IMPROVEMENT OF FACILITIES OF INSTITUTE OF MARINE SCIENCE, PORT ARANSAS.

Section 1. The Board of Regents of The University of Texas is hereby authorized to improve the facilities of the Institute of Marine Science, Port Aransas, Texas, an organized research unit of the Main University, Austin, Texas, by constructing and equipping a Research Building on the premises now occupied by the Institute, and by acquiring by purchase, gift, or otherwise any part or all of a strip of land 100 feet by 350 feet adjacent to or near the premises of the Institute of Marine Science, Port Aransas, Texas, wherever the same is accessible to water for the purpose of dredging and maintaining dock facilities for boats owned by The University of Texas.

Sec. 2. The construction and equipping of the Research Building and the acquisition of a site for dock facilities may be financed wholly or in part from any of the following sources: gifts and grants, federal funds, or the Available University Fund.

Sec. 3. The title to the land acquired shall be taken in the name of the Board of Regents of The University of Texas and shall be subject to the control and management of the Board of Regents in the same manner and to the extent that the lands now held by The University of Texas, Austin, Texas, are held and controlled; provided, however, that if said property is donated to The University of Texas, the deed may provide for reversion of the title to the donor if the property is not used and maintained for the purpose of providing docking facilities for university boats.

Acts 1959, 56th Leg., p. 110, ch. 59.

Art. 2603j. EXCHANGE OF LAND WITH DALLAS COUNTY HOSPITAL DISTRICT FOR CHILDREN'S HOSPITAL.

Section 1. AUTHORITY OF BOARD OF REGENTS; TRADE AND EXCHANGE; DESCRIPTION; DEED. The Board of Regents of The University of Texas

is hereby authorized and empowered to trade and exchange not more than ten (10) acres of land on the western corner of the campus of The University of Texas Southwestern Medical School in Dallas, Texas, being bound on the north by Inwood Road and on the south by the right-of-way of the Chicago, Rock Island, and Gulf Railway, the same being in the Wm. B. Coats Survey, Abstract No. 236, Dallas County, Texas, for a tract of land of seven and one-half (7-1/2) acres, more or less, belonging to the Dallas County Hospital District, adjacent to the Parkland Memorial Hospital, Dallas, Texas, the same being in the A. Bahn Survey, Abstract No. 182, and/or the Wm. B. Coats Survey, Abstract No. 236, Dallas County, Texas, and to accomplish such trade and exchange the Board of Regents of The University of Texas is authorized and directed to convey on behalf of the State of Texas the ten (10) acre tract of land heretofore described in this Section to the Dallas County Hospital District, owner of the seven and one-half (7-1/2) acre tract above described, upon the execution and delivery of a good and sufficient deed of conveyance from the Dallas County Hospital District to the State of Texas for the use and benefit of the Board of Regents of The University of Texas of the seven and one-half (7-1/2) acre tract.

Sec. 2. CONVEYANCE TO CHILDREN'S MEDICAL CENTER OF DALLAS; PURPOSE; FACILITY FOR UNIVERSITY OF TEXAS SOUTHWESTERN MEDICAL SCHOOL. The Board of Regents of The University of Texas on behalf of the State of Texas is hereby authorized and empowered to convey the seven and one-half (7-1/2) acre tract received in exchange from the Dallas County Hospital District to the governing board of the Children's Medical Center of Dallas, Dallas County, Texas, for a construction site of a children's hospital in consideration of the same being made available as a full-time teaching facility for The University of Texas Southwestern Medical School in Dallas, Texas; provided, however, that neither The University of Texas Southwestern Medical School nor the Board of Regents of The University of Texas shall ever incur any financial obligation or expend any funds appropriated by the Legislature for the construction, maintenance, or operation of such children's hospital.

Sec. 3. EXECUTION OF DEED; ATTESTATION. The deed of conveyance of the land exchanged and of the seven and one-half (7-1/2) acres conveyed to the governing board of the Children's Medical Center of Dallas by the Board of Regents of The University of Texas for and on behalf of the State of Texas shall be executed by the Chairman of the

Board of Regents of The University of Texas and attested by its Secretary pursuant to a resolution directing such conveyance.

Sec. 4. CONTENTS OF DEEDS; CONTRACTUAL TERMS. Each deed to be executed as provided for in this Act shall contain by reference any and all easements, reversions, and restrictions to which any tract or tracts conveyed by any party is subject or agreed upon; provided, however, that no deeds shall be exchanged until a contract is negotiated and executed between the Board of Regents of The University of Texas and the governing board of the Children's Medical Center of Dallas which shall obligate the governing board of the Children's Medical Center to construct and operate a children's hospital as a teaching hospital fully integrated with the medical program of The University of Texas Southwestern Medical School, without cost to the State of Texas and which contract shall contain such other terms and conditions as the Board of Regents of The University of Texas shall deem reasonable.

Acts 1961, 57th Leg., p. 215, ch. 113.

CHAPTER 2. TEXAS A & M UNIVERSITY

Art. 2613a-10. CONVEYANCE OF LAND FOR LIVESTOCK INSECTS AND TOXICOLOGY LABORATORY AND COTTON DISEASE RESEARCH FACILITY.

Section 1. The Board of Directors of Texas A & M University is authorized to convey to the United States a sufficient quantity of land on, or conveniently located in reference to, the campus of Texas A & M University for the construction thereon, and for incidental use of said land, at the expense of the United States, of a livestock insects and toxicology laboratory, and a cotton disease research facility.

Sec. 2. The said Board of Directors is authorized to convey to the United States a sufficient quantity of land from the Texas Agricultural Experiment Station at Lubbock for the construction thereon, and for incidental use of said land, at the expense of the United States, of a ginning research facility.

Acts 1965, 59th Leg., p. 308, ch. 140, eff. May 13, 1965.

Art. 2615d-1. KIMBLE COUNTY ADJUNCT; TRANSFER TO TEXAS TECH

UNIVERSITY. The Kimble County Adjunct of Texas A & M University, the land on which it is located, and its buildings, equipment, and facilities are transferred to Texas Tech University for use in connection with the educational activities of Texas Tech University as determined by its board of regents, provided, however, that Texas A & M University shall have the right and duty to complete its current pecan research on the property being transferred.

Acts 1971, 62nd Leg., p. 1905, ch. 570, Sec. 1, eff. Sept. 1, 1971.

CHAPTER 6. TEXAS TECH UNIVERSITY

Art. 2632f. CONVEYANCE OF EASEMENT TO CITY OF LUBBOCK FOR EMERGENCY TELEPHONES. In consideration of the benefits derived from and accruing to the State of Texas and Texas Technological College from the installation, construction, reconstruction, operation, maintenance and repair of a fire alarm signal system to be installed, constructed, reconstructed, operated and maintained to promote the welfare and safety of the inhabitants of the State of Texas, using the facilities of Texas Technological College and to further preserve said facilities, the Chairman of the Board of Directors of Texas Technological College is hereby authorized and directed to execute and deliver on behalf of the State of Texas and Texas Technological College, to the City of Lubbock, a municipal corporation of Lubbock County, Texas, a proper instrument conveying to said City of Lubbock an easement with right of ingress and egress to install, construct, reconstruct, operate and maintain five emergency telephones, with red lights, at strategic points and locations on the campus as may be determined by the Board of Directors of Texas Technological College. The Chairman of the Board of Directors of Texas Technological College is hereby authorized and directed, for and on behalf of said Board of Directors, to execute and deliver such conveyance to carry out the purpose of this Act to the City of Lubbock, Lubbock County, Texas.

Acts 1961, 57th Leg., p. 443, ch. 216.

Art. 2632f-1. CONVEYANCE OF PERMANENT WATER LINE EASEMENT. In consideration of the benefits which will accrue to the State of Texas and Texas Technological College from the construction, reconstruction, operation and maintenance by the City of Lubbock, a

Home Rule Municipal Corporation, of a permanent water line together with all appurtenances thereto, in, under and across certain lands in Lubbock County, Texas, such land being owned by the State of Texas and constituting a portion of Texas Technological College, the Chairman of the Board of Directors of Texas Technological College is hereby authorized to execute and deliver on behalf of the State of Texas and Texas Technological College to the City of Lubbock a proper instrument conveying to said City of Lubbock a permanent water line easement with the right of ingress and egress to construct, reconstruct, operate and maintain a permanent water line, to be located as more particularly determined by the Board of Directors of Texas Technological College upon approval by said Board of Directors of the plans and specifications for the construction of said water line facility, and the said Chairman of the Board of Directors of Texas Technological College is hereby authorized for and on behalf of said Board of Directors to execute and deliver such conveyance to carry out the purposes of this Act to the City of Lubbock, Lubbock County, Texas.

Acts 1967, 60th Leg., p. 1093, ch. 482, Sec. 1, eff. June 12, 1967.

CHAPTER 11. COUNTY SCHOOLS

Art. 2676a. ELECTION OF COUNTY BOARD OF SCHOOL TRUSTEES IN COUNTIES OF 100,000 TO 200,000.

Sec. 1. From and after the effective date of this act in any county in this state having a population of not less than 312,000 and not more than 330,000, the general management and control of the public free schools and high schools in each county unless otherwise provided by law shall be vested in five (5) county school trustees elected from the county, one of whom shall be elected from the county at large by the qualified voters of the county and one from each commissioners precinct by the qualified voters of each commissioners precinct, who shall hold office for a term of two (2) years. The time for such election shall be the first Saturday in April of each year; the order for the election of county school trustees to be made by the County Judge at least thirty (30) days prior to the date of said election, and which order shall designate as voting places or places at which votes are cast for the district trustees of said common and

independent school districts, respectively. The election officers appointed to hold the election for district trustees in each of said school districts, respectively, shall hold this election for county school trustees.

Sec. 2. It shall be no valid objection that the voters of a commissioners precinct are required by the operation of this Act to cast their ballots at a polling place outside the commissioners precinct of their residence.

Sec. 3. The Commissioners Court of each county within the scope of Section 1 shall appoint county school trustees to serve until the first regularly scheduled election as provided herein.

Sec. 4. All five (5) county school trustees shall be elected at the first regulary scheduled election. Two (2) of the trustees elected at this election shall serve initial terms of one (1) year. Two (2) or three (3) county school trustees shall thereafter be elected, alternately, at each subsequent election. The county school trustees shall draw lots to determine which two (2) shall serve initial terms of one (1) year.

Sec. 5. All vacancies occurring between elections shall be filled by appointment of the remaining trustees.

Sec. 6. The county judge of each such county shall continue to perform, without additional compensation, duties formerly constituting the role of the county superintendent. The Commissioners Court shall provide funds for secretarial and stenographic assistance to the county judge in performing these duties.

Sec. 7. The county school trustees shall not detach territory from any independent school district in such county and annex such territory to another independent school district without the prior consent of the school trustees of the district from which such territory is being detached as well as the prior consent of the school trustees of the district to which such detached territory is to be annexed.

Acts 1963, 58th Leg., p. 1348, ch. 511.
Sec. 1 amended by Acts 1971, 62nd Leg., p. 1833, ch. 542, Sec. 71, eff. Sept. 1, 1971; Acts 1991, 72nd Leg., ch. 597, Sec. 10, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 155, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 186, eff. September 1, 2011.

Art. 2676b. ELECTION OF COUNTY-WIDE DISTRICT TRUSTEES IN COUNTIES OF 5,150 TO 5,175. This Act applies to a county-wide school district in a county having a population of more than 5,250 and less than 5,350. The Board of Trustees may order that the trustees of the district shall run at large in the county. If the Board orders that its members shall run at large, each position shall be filled by election from the county at large upon expiration of the current term of office.

Acts 1965, 59th Leg., p. 456, ch. 233, Sec. 1, eff. Aug. 30, 1965. Amended by Acts 1971, 62nd Leg., p. 1818, ch. 542, Sec. 8, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 571, ch. 237, Sec. 44, eff. Sept. 1, 1981; Acts 1991, 72nd Leg., ch. 597, Sec. 11, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 156, eff. Sept. 1, 2001.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 187, eff. September 1, 2011.

Art. 2676c. ELECTION OF COUNTY SCHOOL TRUSTEES IN COUNTIES OF 2,000,000 OR MORE.

Sec. 1. ELECTIONS FOR COUNTY SCHOOL TRUSTEES IN CERTAIN COUNTIES. This Act applies to the elections for county school trustees in all counties having a population of 3.3 million or more.

Sec. 2. DATE OF ELECTION. The election for county school trustees shall be held on the first Saturday in April of each odd-numbered year, or on the first Saturday in October of those years as designated by the order of the board of county school trustees.

Sec. 3. ORDER FOR ELECTION. The order for election shall be made by the board of county school trustees at least 30 days before the date the election is to be held, and shall define the voting precincts and name the judges of election.

Sec. 4. NOTICE OF ELECTION. The board of county school trustees shall give notice of an election by posting a notice in each of three public places in the county, one of which shall be at the courthouse

door, or by publishing a notice more than 20 days before the date of the election at least once in a newspaper of general circulation in the county, or by both publication and posting.

Sec. 5. ELECTION OFFICERS. So far as possible, the board of county school trustees shall designate the election officers holding the election for local trustees in each of the school districts in the county as the officers to hold the election for county school trustees.

Sec. 6. EXPENSES OF HOLDING AN ELECTION. All expenses of holding an election shall be paid out of the administration funds under the jurisdiction of the board of county school trustees.

Sec. 7. DECLARATION OF ELECTION RESULTS. The officers holding an election shall report the returns of the election to the secretary of the board of county school trustees at his office in the courthouse in the county seat immediately after the election is held. The board of county school trustees shall declare the results of an election within 10 days after the holding of an election.

Sec. 8. CANDIDATE FOR COUNTY SCHOOL TRUSTEE; APPLICATION; ELIGIBILITY. (a) Any person desiring to have his name printed on the ballot as a candidate for the office of county school trustee shall file his written application with the secretary of the board of county school trustees at least 15 days before the date of the election.

(b) No person is eligible to be a candidate unless he is a qualified elector in the State of Texas.

Acts 1965, 59th Leg., p. 1291, ch. 595, eff. Aug. 30, 1965. Sec. 1 amended by Acts 1971, 62nd Leg., p. 1817, ch. 542, Sec. 3, eff. Sept. 1, 1971; Acts 1981, 67th Leg., p. 571, ch. 237, Sec. 45, eff. Sept. 1, 1981; Sec. 1 amended by Acts 2001, 77th Leg., ch. 669, Sec. 157, eff. Sept. 1, 2001.

Art. 2685a. EXPENSES OF ADMINISTERING SCHOLASTIC AFFAIRS IN CERTAIN COUNTIES. That in each county of this State with a population of not less than thirteen thousand, six hundred (13,600) and not more than thirteen thousand, six hundred fifty (13,650) and in all counties containing a population of not less than fifteen thousand, two hundred (15,200) and not more than fifteen thousand, seven hundred (15,700), as shown by the Federal Census last preceding

such action, the county board of trustees is hereby authorized to set aside from the Available School Fund of the county, in accordance with the provisions of the General Law governing the assessment for the support of the county superintendent's office, an amount not to exceed Six Hundred Dollars ($600) to defray the expenses of the county superintendent and the county board of trustees in the administration of the scholastic affairs of the county.

Acts 1935, 44th Leg., p. 437, ch. 175, Sec. 1.

Art. 2685b. COUNTIES OF 5,100 TO 5,200; EXPENSES OF ADMINISTERING SCHOLASTIC AFFAIRS. In each county of this State with a population of not less than five thousand one hundred (5,100) nor more than five thousand two hundred (5,200) as shown by the Federal Census of 1930, the county board of trustees is hereby authorized to set aside from the Available School Fund of the county, in accordance with the provisions of the General Law governing the assessment for the support of the county superintendent's office, an amount not to exceed Six Hundred ($600.00) Dollars per year to defray the expenses of the County Judge serving as ex officio County Superintendent within the county.

Acts 1939, 46th Leg., Spec.L., p. 627, Sec. 1.

Art. 2685b-1. COUNTIES OF 5,950 TO 6,050; EXPENSES OF ADMINISTERING SCHOLASTIC AFFAIRS. In each county of this State with a population of not less than five thousand, nine hundred and fifty (5,950) nor more than six thousand and fifty (6,050), as shown by the Federal Census of 1940, the county board of trustees is hereby authorized to set aside from the Available School Fund of the county, in accordance with the provisions of the General Law governing the assessment for the support of the county superintendent's office, an amount not to exceed Nine Hundred Dollars ($900) per year to defray the expenses of the County Judge serving as ex officio county superintendent within the county.

Acts 1941, 47th Leg., p. 119, ch. 92, Sec. 1.

Art. 2687b. MEETINGS IN COUNTIES OF 130,000 TO 133,000 POPULATION. In all counties in Texas having a population of not less than one hundred and thirty thousand (130,000) and not more than one hundred and thirty-three thousand (133,000), according to the last preceding Federal Census, the County School Trustees shall hold meetings once each month on the first Monday of each month, or as soon thereafter as practicable, or at such other times when called by the President of the Board of County School Trustees or at the instance of any three (3) members of said Board and the County Superintendent; the meeting place to be at the County Courthouse and in the office of the County Superintendent, or at such other place in the County Courthouse as may be designed by the President of said Board of County School Trustees. Each County School Trustee shall be paid Six Dollars ($6) per day for the time spent in attending said meetings, not exceeding twenty-four (24) days in any one year. Such compensation shall be paid out of the school administration fund of said county by warrants drawn against such fund as the law now provides, after the approval of this Act.

Acts 1937, 45th Leg., 1st C.S., p. 1820, ch. 40, Sec. 1.

Art. 2687c. MEETINGS IN COUNTIES OF 48,800 TO 50,400; COMPENSATION .

Section 1. In all counties in Texas having a population of not less than forty-eight thousand, eight hundred (48,800) and not more than fifty thousand, four hundred (50,400) inhabitants, according to the last preceding Federal Census, the County School Trustees shall hold meetings once each month on the first Monday in each month, or as soon thereafter as practicable, or at such other time when called by the President of the Board of County School Trustees, or at the instance of any three (3) members of said Board and the County Superintendent, the meeting place to be at the county seat and in the office of the County Superintendent, or at such other place in the county courthouse as may be designated by the President of said Board of County School Trustees. Each County School Trustee shall be paid Five Dollars ($5) per day for the time spent in attending such meeting not to exceed twenty-four (24) days in any one year. Such compensation shall be paid out of the school administration fund of

each county by warrants drawn against such fund as the law now provides, after the approval of this Act.

Sec. 2. The provisions of this Act shall be cumulative of all laws on the subject of this Act when not in conflict herewith, but in case of conflict the provisions of this Act shall control and be effective. All laws in conflict with this Act are hereby repealed to the extent of such conflict.

Acts 1941, 47th Leg., p. 1314, ch. 587.

Art. 2687d. MEETINGS OF TRUSTEES IN CERTAIN COUNTIES; COMPENSATION.

Section 1. In all counties in this State having a population of not less than fifty thousand, nine hundred and fifty (50,950) nor more than fifty-one thousand, one hundred (51,100), all counties having a population of not less than thirty-four thousand (34,000) nor more than thirty-five thousand (35,000), and all counties having a population of not less than twenty-nine thousand, two hundred and twenty-five (29,225) nor more than twenty-nine thousand, two hundred and forty (29,240), according to the last preceding Federal Census, the County School Trustees shall hold meetings once each quarter on the first Monday in August, November, February, and May, or as soon thereafter as is practicable, or such meetings may be held on the first Monday in each month and at such other times when called by the President of the Board of County School Trustees or at the instance of any two (2) members of such Board and the County Superintendent.

The meeting place shall be at the county seat, and, if convenient, in the office of the County Superintendent. Each Trustee shall be paid Four Dollars ($4) per day for the time spent in attending such meetings, not to exceed twenty-five (25) days in any one year, to be paid out of the State and County Available School Fund by warrant drawn on the order of the County Superintendent and signed by the President of the Board of County School Trustees, after approval of the account, properly sworn to by the President of the Board of County School Trustees.

Sec. 1a. In all counties in this State having a population of not less than twenty-three thousand and five (23,005) nor more than twenty-three thousand, three hundred (23,300), according to the last

available Federal Census as same now exists or may hereafter exist, the County School Trustees shall hold meetings once each month on the first Monday in each month, or as soon thereafter as practicable, or at such other times when called by the President of the Board of County School Trustees, or at the instance of any three (3) members of said Board and the County Superintendent; the meeting place to be at the county seat and in the office of the County Superintendent, or at such other place in the County Courthouse as may be designated by the President of said Board of County School Trustees. Each County School Trustee shall be paid Five Dollars ($5) per day for the time spent in attending such meetings, not to exceed fifteen (15) days in any one year. Such compensation shall be paid out of the school administration fund of each county by warrants drawn against such fund as the law now provides, after the approval of this Act.

Sec. 1b. In all counties in this State having a population of not less than thirty-one thousand, eight hundred and thirty (31,830), nor more than thirty-two thousand, nine hundred and forty-one (32,941), according to the last available Federal Census as same now exists and may hereafter exist, the County School Trustees shall hold meetings once each month on the first Monday in each month, or as soon thereafter as practicable, or at such other times when called by the President of the Board of County School Trustees, or at the instance of any three (3) members of said Board and the County Superintendent; the meeting place to be at the county seat and in the office of the County Superintendent, or at such other place in the County Courthouse as may be designated by the President of said Board of County School Trustees. Each County School Trustee shall be paid Four Dollars ($4) per day for the time spent in attending such meeting, not to exceed eighteen (18) days in any one year. Such compensation shall be paid out of the school administration fund of each county by warrants drawn against such fund as the law now provides, after the approval of this Act.

Sec. 2. The provisions of this Act shall be cumulative of all existing laws on this subject when not in conflict herewith. All laws or parts of laws in conflict herewith are repealed.

Acts 1941, 47th Leg., p. 1302, ch. 577.

Art. 2688b. APPOINTMENT OF COUNTY SUPERINTENDENT IN COUNTIES OF

OVER 350,000. In all counties having a population in excess of three hundred and fifty thousand (350,000) inhabitants, according to the last available Federal Census, the County Superintendent shall be appointed by the Board of County School Trustees and shall hold office for four (4) years.

Acts 1934, 43rd Leg., 2nd C.S., p. 162, ch. 67, Sec. 1.

Art. 2688d. CERTAIN COUNTIES OF NOT MORE THAN 4 SCHOOL DISTRICTS; OFFICE ABOLISHED; COUNTY JUDGE TO PERFORM DUTIES.

Section 1. In all counties of the State where, according to the preceding annual statistical report of the schools said county has not more than four (4) school districts, with one (1) of such districts comprising more than half of the county and having more than two thousand (2,000) pupils in average daily attendance in the one (1) district alone, and such district having an assessed valuation of more than Twenty Million Dollars ($20,000,000) and where there is only one (1) common school district in such county with an average daily attendance of less than sixteen (16), the office of county superintendent is hereby abolished, to be effective at the end of the term of the incumbent county superintendent, as is now provided by law.

Sec. 2. Any duties that may still be required by law of the office of county superintendent of such counties that may come under Section 1 of this Act shall be performed by the county judge of said county as is now provided by law. (Articles 2701 and 3888, Revised Civil Statutes).

Acts 1961, 57th Leg., p. 313, ch. 164.

Art. 2688g. COUNTIES OF 600,000 WITH 4 OR MORE SCHOOL DISTRICTS; ELECTION; ABOLITION OF OFFICE; TRANSFER OF DUTIES. (a) The electorate of any county in this State having a population of not less than six hundred thousand (600,000), according to the last preceding Federal Census, and wherein there are four (4) or more common school districts, shall, at the next General Election following the passage of this Act, determine by majority vote whether the office of county superintendent shall be abolished in said

county. At such election all ballots shall have printed thereon the following:

"FOR the abolishment of the office of county superintendent."

"AGAINST the abolishment of the office of county superintendent."

(b) Where the majority of the qualified electors approve the abolition of the office of county superintendent in such counties, the duties of such abolished office as may still be required by law shall vest in the county judge in ex officio capacity upon the expiration of the current term of the office of county superintendent. In addition to all other compensation the county judge in such ex officio capacity shall receive a salary to be determined by the county board of school trustees. This additional compensation shall not exceed the maximum amount provided by Article 3888, Vernon's Texas Civil Statutes.

Acts 1962, 57th Leg., 3rd C.S., p. 47, ch. 17, Sec. 1.

Art. 2688h. COUNTIES OF 190,000 TO 205,000; COUNTY SUPERINTENDENT AND BOARD OF TRUSTEES; ABOLITION OF OFFICES; TRANSFER OF DUTIES; ASSISTANTS TO COUNTY JUDGE. (a) Repealed by Acts 1981, ch. 237, p. 599, ch. 237, Sec. 145, eff. Sept. 1, 1981.

(b) From and after May 1, 1962, the office of the county board of school trustees and the office of county superintendent shall cease to exist in any county in this State having a population of not less than 285,000 and not more than 300,000 which has no common school district and whose county ad valorem evaluation is in excess of Two Hundred Fifty Million Dollars ($250,000,000); provided, however, that the county superintendents in such counties who have been heretofore elected or appointed to the office of county superintendent shall serve until the expiration of the term for which they were elected or appointed. The duties now performed by the board of school trustees and county superintendents in such counties shall be performed by the County Judges of such counties.

(c) The county judge may name or appoint an assistant or assistants to help perform duties formerly performed by the board of school trustees and the county superintendent, and the salary for such assistant or assistants and all necessary office expenses and travel expenses relating to the performance of duties by such

assistant or assistants or the county judge shall be paid from the County Available School Fund.

Subsec. (c) added by Acts 1969, 61st Leg., p. 2461, ch. 826, Sec. 1, eff. Sept. 1, 1969; Subsecs. (a), (b) amended by Acts 1971, 62nd Leg., p. 1840, ch. 542, Sec. 98, eff. Sept. 1, 1971; Subsec. (c) amended by Acts 1973, 63rd Leg., p. 227, ch. 102, Sec. 1, eff. May 18, 1973; Subsecs. (b), (c) amended by Acts 1981, 67th Leg., p. 571, ch. 237, Sec. 46, eff. Sept. 1, 1981; Subsec. (b) amended by Acts 1991, 72nd Leg., ch. 597, Sec. 12, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 2001, 77th Leg., ch. 669, Sec. 158, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 188, eff. September 1, 2011.

Art. 2688i-1. COUNTY SUPERINTENDENTS, EX OFFICIO COUNTY SUPERINTENDENTS AND COUNTY BOARDS OF EDUCATION; ABOLITION OF OFFICES IN CERTAIN COUNTIES; TRANSFER OF DUTIES.

Sec. 1. This Act applies to a county

(1) if the office of county superintendent and the county school board has been abolished in the county; and

(2) if the county has one county-wide independent school district and no common school district.

Sec. 2. The office of ex officio county superintendent is abolished upon the effective date of this Act.

Sec. 3. All duties and functions, except as hereafter provided, that are now required by law of the office of ex officio county school superintendent, shall be performed by the superintendent of the independent school district, and all the duties that may now be required by law of the county board of education shall be performed by the elected board of trustees of such independent school district, except that the county judge shall, without pay from the State of Texas, continue to approve or disapprove application for school transfers to other schools outside of the county. The commissioners court shall hereafter receive, hear and pass upon all petitions for the calling of elections for the creation, change or abolishment of county school districts and all authorized appeals from the

independent school board of trustees shall be made directly to the State Board of Education or to the courts as provided by law.

Sec. 4. All school records of the original independent and/or common school district shall be transferred to the control and custody of the independent school district office, save and except the original financial records which shall be retained by the county treasurer, and thereafter the county judge shall be required to make no records or reports but said reports shall be made by the superintendent of such independent school district; that as soon as practicable after the effective date of this Act, all remaining state funds in the hands of the county board of education shall be transferred by the county treasurer and the county judge to the County Independent School District's Administration Account.

Sec. 5. The provisions of this Act shall not apply to counties having a population of not less than 5,250 and not more than 5,350 and to counties having a population of not less than 54,000 and not more than 54,500.

Sec. 6. No county having a population of more than 30,000 and less than 32,000 shall have the offices of county school superintendent, ex officio county school superintendent, and county board of education.

All duties and functions, except as hereafter provided, that are otherwise required by law of the office of county school superintendent or ex officio county school superintendent governed by this section shall be performed by the superintendents of the independent and rural high school districts, and all duties that may otherwise be required by law of the county board of education governed by this section shall be performed by the elected Board of Trustees of such independent and rural high school districts, except that the County Judge shall, without pay from the State of Texas, continue to approve or disapprove application for school transfers. The Commissioners Court of such county shall hereafter receive, hear and pass upon all petitions for the calling of elections for the creation, change or abolishment of county school districts and all authorized appeals from the independent school Board of Trustees shall be made directly to the State Board of Education or to the courts as provided by law.

All school records of the original independent and/or common school district governed by this section, shall be transferred to the control and custody of the independent school district office,

located at the county seat, save and except the original financial records which shall be retained by the county treasurer, and thereafter the County Judge shall be required to make no records or reports but said reports shall be made by the superintendent of such independent or rural school district; that as soon as practicable after the effective date of this Act, all remaining State funds in the hands of the county board of education shall be transferred by the county treasurer and the County Judge to the independent and rural high school districts in proportion to the number of scholastics enrolled in such districts.

Acts 1965, 59th Leg., p. 1641, ch. 706, eff. Aug. 30, 1965. Sec. 5 amended by Acts 1971, 62nd Leg., p. 1849, ch. 542, Sec. 126, eff. Sept. 1, 1971; Sec. 6 amended by Acts 1971, 62nd Leg., p. 1835, ch. 542, Sec. 79, eff. Sept. 1, 1971; Secs. (5), (6) amended by Acts 1991, 72nd Leg., ch. 597, Sec. 13, eff. Sept. 1, 1991; Secs. 5, 6 amended by Acts 2001, 77th Leg., ch. 669, Sec. 159, eff. Sept. 1, 2001.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 189, eff. September 1, 2011.

Art. 2688k. COUNTIES OF 16,000 OR MORE; EX OFFICIO SCHOOL SUPERINTENDENT AND COUNTY BOARD OF EDUCATION; ABOLITION OF OFFICES; TRANSFER OF DUTIES.

Section 1. In all counties in this state having a population of sixteen thousand (16,000) or more, according to the last preceding Federal Census, and having no Common School District and only one Independent School District, the offices of the Ex Officio School Superintendent and County Board of Education is hereby abolished, effective as of the expiration of the current term of the incumbent Ex Officio School Superintendent.

Sec. 2. All duties and functions, except as hereafter provided, that are now required by law of the office of Ex Officio County School Superintendent, shall be performed by the Superintendent of the Independent School District, and all the duties that may now be required by law of the County Board of Education shall be performed by the elected Board of Trustees of such Independent School District,

except that the County Judge shall, without pay from the State of Texas, continue to approve or disapprove application for school transfers to other schools outside of the county. The Commissioners Court shall hereafter receive, hear and pass upon all petitions for the calling of elections for the creation, change or abolishment of County School Districts and all authorized appeals from the Independent School Board of Trustees shall be made directly to the State Board of Education or to the courts as provided by law.

Sec. 3. All School Records of the original Independent and/or Common School District, shall be transferred to the control and custody of the Independent School District Office, save and except the original financial records which shall be retained by the County Treasurer, and thereafter the County Judge shall be required to make no records or reports but said reports shall be made by the Superintendent of such Independent School District; that as soon as practicable after the effective date of this Act, all remaining state funds in the hands of the County Board of Education shall be transferred by the County Treasurer and the County Judge to the County Independent School District's Administration Account.

Acts 1963, 58th Leg., p. 1150, ch. 446.

Art. 2688n. COUNTIES OF 25,750 TO 28,000; COUNTY SUPERINTENDENTS; ABOLITION OF OFFICE; TRANSFER OF DUTIES. The office of County Superintendent is abolished in all counties having a population of not less than 25,750 nor more than 28,000 according to the last preceding Federal Census. After the effective date of this Act, the duties of the office shall be performed by the County Judge as ex officio County Superintendent.

Acts 1965, 59th Leg., p. 1509, ch. 654, Sec. 1, eff. Sept. 1, 1965.

Art. 2700b. SUPERINTENDENT'S SALARY AND OFFICE EXPENSES IN CERTAIN COUNTIES.

Section 1. That the salary of the County Superintendent of Public Instruction of each county in Texas having a population of not less than 60,000 nor more than 73,000 according to the last Federal census, shall from and after the passage of this Act be not less than

the sum of $2,800.00 per annum nor more than the sum of $3,800.00 per annum.

Sec. 2. In making the annual per capita apportionment to the schools of the counties having a population of not less than 60,000 nor more than 73,000, the County School Trustees shall also make an annual allowance out of the State and County Available Funds for the payment of the salary of the Superintendent of Public Instruction not less than $2,800.00 nor more than $3,800.00 and office expenses in any sum not exceeding $200.00 per annum for stamps and stationery; and the Commissioners' Courts of the Counties having a population of not less than 60,000 nor more than 73,000 may expend out of the general funds of said counties any sums not exceeding the sum of $600.00 per annum to defray the expenses incurred by said County Superintendent which said sum shall be paid by said Commissioners upon certificate of said Superintendent that the expenses have been incurred in the discharge of his duties as such Superintendent.

Sec. 3. The salary to be paid monthly upon the order of the School Trustees; provided, that the salary for the month of September shall not have been paid until the Superintendent of Public Instruction shall have presented a receipt or certificate from the State Superintendent of Public Instruction showing that he has made all reports required of him; that the expenses provided for herein shall be paid monthly by the County Treasurer on the order of the Commissioners' Court.

Acts 1927, 40th Leg., p. 394, ch. 267.

Art. 2700c. SUPERINTENDENT'S SALARY AND OFFICE EXPENSES IN COUNTIES OF 12,100 TO 12,190 POPULATION.

Section 1. That the salary of the County Superintendent of Public Instruction of each County in Texas having a population of not less than twelve thousand one hundred (12,100) and not more than twelve thousand one hundred and ninety (12,190), according to the last available Federal Census, shall from and after the passage of this Act be not less than the sum of twenty-one Hundred Dollars ($2100.00) and not more than the sum of Three Thousand Dollars ($3,000.00) per annum.

Sec. 2. In making the annual per capita apportionment to the

schools of the counties having a population of not less than twelve thousand one hundred (12,100) and not more than twelve thousand one hundred and ninety (12,190), according to the last available Federal Census, the county school trustees shall also make an allowance out of the State and County Available Funds for the payment of the salary of the County Superintendent of Public Instruction, not less than Twenty-one Hundred Dollars ($2100.00) nor more than Three Thousand Dollars ($3,000.00), and an office expense not exceeding Three Hundred Dollars ($300.00) per annum for stamps and stationery, and the Commissioners' Courts of the counties herein affected may expend out of the General Fund of such counties any sums not exceeding Three Hundred Dollars ($300.00) per annum to defray the traveling expenses incurred by said County Superintendent, which said sum shall be paid by said Commissioners' Courts upon certificate of said Superintendent that the expenses have been incurred in the discharge of his duties as such Superintendent.

Sec. 3. The salary shall be paid monthly upon order of the county school trustees; providing that the month of September shall not be paid until the County Superintendent shall have presented a receipt or a certificate from the State Superintendent of Public Instruction, showing that he had made all reports required of him; the expenses herein authorized shall be paid monthly by the County Treasurer on the order of the Commissioners' Court.

Acts 1929, 41st Leg., p. 90, ch. 44; Acts 1931, 42nd Leg., Spec.L., p. 433, ch. 219.

Art. 2700d. SUPERINTENDENT'S SALARY AND EXPENSES IN COUNTIES OF 100,000 TO 150,000 POPULATION.

Section 1. That the salary of the County Superintendent of Public Instruction of each County in Texas, having a population of not less than 100,000 nor more than 150,000 according to the last Federal Census, shall from and after passage of this Act be not less than the sum of $2,800.00 per annum, or more than the sum of $3,800.00 per annum.

Sec. 2. In making the annual per capita apportionment to the schools of the Counties having a population of not less than 100,000 and not more than 150,000 the County School Trustees shall also make

an annual allowance out of the State and County Available Funds for the payment of the salary of the Superintendent of Public Instruction not less than $2,800.00 nor more than $3,800.00 and the Commissioner's Courts of the Counties having a population of not less than 100,000 nor more than 150,000 may expend out of the general fund of said counties any sums not exceeding the sum of $1200 per annum, to defray the expenses incurred by said County Superintendent which said sum or any part thereof shall be paid by said Commissioners upon certificate of said Superintendent that the expenses have been incurred in the discharge of his duties as such superintendent.

Sec. 3. Said salary to be paid monthly upon the order of the county school trustees, provided that said salary to the Superintendent of public instruction for the month of September shall not be paid until the Superintendent shall have presented a receipt or certificate from the State Superintendent of Public Instruction showing that he has made all reports required of him; that the expenses provided for herein shall be paid monthly by the County Treasurer on the order of the Commissioner's Court.

Acts 1929, 41st Leg., p. 323, ch. 148.

Art. 2700d-2. SUPERINTENDENT'S SALARY IN COUNTIES HAVING A POPULATION OF 4,660 AND NOT MORE THAN 4,700.

Section 1. That the salary of the County Superintendent of Public Instruction of each county in Texas having a population of not less than 4,660 nor more than 4,700 according to the Federal Census of 1920, shall, from and after the passage of this Act be not less than the sum of $2,400.00 per annum nor more than the sum of $3,000.00 per annum.

Sec. 2. In making the annual per capita apportionment to the schools of the counties having a population of not less than 4,660 nor more than 4,700 according to the Federal Census of 1920, the County School Trustees shall also make an allowance out of the State and County Available Funds for the payment of the salary of the County Superintendent of Public Instruction not less than $2,400.00 nor more than $3,000.00 and office expenses not exceeding $300.00 per annum for stamps and stationery; and the Commissioners' Courts of the counties having a population of not less than 4,660 nor more than

4,700 may expend out of the general funds of such counties any sums not exceeding the sum of $300.00 per annum to defray the traveling expenses incurred by said County Superintendent, which said sum shall be paid by said Commissioners upon certificate of said Superintendent that the expenses have been incurred in the discharge of his duties as such Superintendent.

Sec. 3. The salary shall be paid monthly upon the order of the County School Trustees; provided, that the month of September shall not be paid until the Superintendent of Public Instruction shall have presented a receipt or a certificate from the State Superintendent of Public Instruction showing that he has made all the reports required by him; that the expenses provided for herein shall be paid monthly by the County Treasurer on the order of the Commissioners' Court.

Acts 1930, 41st Leg., 5th C.S., p. 255, ch. 83.

Art. 2700d-4. SUPERINTENDENT'S SALARY IN COUNTIES OF 2865 AND NOT MORE THAN 2870, ETC. That the salary of County Superintendents of Public Instruction in all counties in Texas having not less than two thousand eight hundred and sixty-five (2,865) and not more than two thousand eight hundred and seventy (2,870) population and in all counties in Texas having not less than three thousand eight hundred and fifty (3,850) and not more than three thousand nine hundred (3,900) population, and in all counties in Texas having not less than four thousand nine hundred and fifteen (4,915) and not more than four thousand nine hundred and twenty (4,920) population, each, according to the last preceding Federal Census from and after the effective date of this Act shall be paid from the Available School Fund of such County.

Acts 1935, 44th Leg., p. 197, ch. 80, Sec. 1.

Art. 2700d-5. SUPERINTENDENT'S EXPENDITURES IN CERTAIN COUNTIES. In counties having a population of not less than seventy-seven thousand (77,000), and not more than seventy-seven thousand, six hundred (77,600), and in counties having a population of not less than fifteen thousand, five hundred and fifty (15,550), and not more than fifteen thousand, five hundred and sixty (15,560), and in counties having a population of not less than nineteen thousand, one

hundred and thirty (19,130) and not more than nineteen thousand, three hundred (19,300); and in counties having a population of not less than thirty-four thousand, six hundred (34,600) and not more than thirty-four thousand, seven hundred (34,700), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Acts 1935, 44th Leg., p. 545, ch. 232, Sec. 1.

Art. 2700d-6. COUNTY SUPERINTENDENT'S SALARY AND TRAVELING EXPENSES. In counties having a population of not less than thirty thousand (30,000) and not more than thirty thousand and twenty-nine (30,029), and counties having a population of not less than eighteen thousand four hundred twenty-five (18,425) and not more than eighteen thousand five hundred twenty-eight (18,528), and counties having a population of not less than forty-three thousand one hundred (43,100) and not more than forty-three thousand three hundred (43,300) and counties having a population of not less than twenty-three thousand eight hundred and eighty (23,880) and not more than twenty-three thousand nine hundred (23,900), and in counties having a population of not less than thirty-four thousand (34,000) and not more than thirty-five thousand five hundred (35,500), and in counties having a population of not less than eighteen thousand eight hundred fifty (18,850) and not more than eighteen thousand eight hundred seventy-five (18,875), and counties having a population of not less than ten thousand one hundred fifty-three (10,153) inhabitants and not more than ten thousand one hundred fifty-six (10,156) inhabitants, and counties having a population of not less than nineteen thousand one hundred (19,100) and not more than nineteen thousand one hundred fifty (19,150), and counties having a population of not less than thirty thousand four hundred (30,400) and not more than thirty thousand six hundred (30,600), according to the last preceding Federal Census, the County Boards of Trustees may make such

provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred ($600.00) Dollars per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Acts 1935, 44th Leg., 2nd C.S., p. 1852, ch. 471, Sec. 1.

Art. 2700d-7. COUNTY SUPERINTENDENT'S OFFICE AND TRAVELLING EXPENSES IN COUNTIES OF ENUMERATED POPULATION.

Section 1. COUNTIES OF 24,060 TO 24,075. In counties having a population of not less than twenty-four thousand and sixty (24,060) and not more than twenty-four thousand and seventy-five (24,075), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-a. COUNTIES OF 30,288 TO 30,292. In counties having a population of not less than thirty thousand, two hundred eighty-eight (30,288), nor more than thirty thousand, two hundred ninety-two (30,292), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-b. COUNTIES OF 12,469 TO 12,473. In counties having a population of not less than twelve thousand, four hundred sixty-nine (12,469), nor more than twelve thousand, four hundred seventy-three

(12,473), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-c. COUNTIES OF 27,800 TO 27,804. In counties having a population of not less than twenty-seven thousand, eight hundred (27,800), nor more than twenty-seven thousand, eight hundred four (27,804), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-d. COUNTIES OF 11,996 TO 12,000. In counties having a population of not less than eleven thousand, nine hundred ninety-six (11,996), nor more than twelve thousand (12,000), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-e. COUNTIES OF 12,522 TO 12,526. In counties having a population of not less than twelve thousand, five hundred twenty-two (12,522), nor more than twelve thousand, five hundred twenty-six (12,526), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall

not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-f. COUNTIES OF 17,062 TO 17,066. In counties having a population of not less than seventeen thousand, sixty-two (17,062), nor more than seventeen thousand, sixty-six (17,066), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-g. COUNTIES OF 11,446 TO 11,450. In counties having a population of not less than eleven thousand, four hundred forty-six (11,446), nor more than eleven thousand, four hundred fifty (11,450), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-h. COUNTIES OF 14,586 TO 14,590. In counties having a population of not less than fourteen thousand, five hundred eighty-six (14,586), nor more than fourteen thousand, five hundred ninety (14,590) according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-i. COUNTIES OF 22,640 TO 22,644. In counties having a

population of not less than twenty-two thousand, six hundred forty (22,640), nor more than twenty-two thousand, six hundred forty-four (22,644), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-j. COUNTIES OF 13,934 TO 13,938. In counties having a population of not less than thirteen thousand, nine hundred thirty-four (13,934), nor more than thirteen thousand, nine hundred thirty-eight (13,938) according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-k. COUNTIES OF 28,625 TO 28,630. In counties having a population of not less than twenty-eight thousand, six hundred twenty-five (28,625), nor more than twenty-eight thousand, six hundred thirty (28,630), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-l. COUNTIES OF 15,147 TO 15,152. In counties having a population of not less than fifteen thousand, one hundred forty-seven (15,147), nor more than fifteen thousand, one hundred fifty-two (15,152), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary

for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 2. PROVISIONS CUMULATIVE; CONFLICTING LAWS. The provisions of this Act shall be cumulative of all General Laws on the subject and where not otherwise provided herein, such General Laws shall apply; but, in case of conflict, the provisions of this Act shall control and be effective.

Acts 1937, 45th Leg., p. 35, ch. 27.

Art. 2700d-8. OFFICE AND TRAVELING EXPENSES OF SUPERINTENDENT AND ASSISTANTS.

Section 1. COUNTIES WITH 14,540-14,580 POPULATION. In counties having a population of not less than fourteen thousand, five hundred and forty (14,540) and not more than fourteen thousand, five hundred and eighty (14,580), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1a. COUNTIES WITH 48,563-48,663 POPULATION. In counties having a population of not less than forty-eight thousand, five hundred sixty-three (48,563) and not more than forty-eight thousand, six hundred sixty-three (48,663), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the

manner and in accordance with now existing laws governing the maintenance of the office of County Superintendent.

Sec. 1b. COUNTIES WITH 10,371-10,471 POPULATION. In counties having a population of not less than ten thousand, three hundred seventy-one (10,371) and not more than ten thousand, four hundred seventy-one (10,471), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of County Superintendent.

Sec. 1c. COUNTIES WITH 30,030-30,130 POPULATION. In counties having a population of not less than thirty thousand, thirty (30,030) and not more than thirty thousand, one hundred thirty (30,130), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of County Superintendent.

Sec. 1d. COUNTIES WITH 10,028-10,128 POPULATION. In counties having a population of not less than ten thousand, twenty-eight (10,028) and not more than ten thousand, one hundred twenty-eight (10,128), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the Office of the County Superintendent.

Sec. 1e. COUNTIES WITH 16,003-16,010 POPULATION. In counties having a population of not less than sixteen thousand, three (16,003)

and not more than sixteen thousand, ten (16,010), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Acts 1937, 45th Leg., p. 111, ch. 64.

Art. 2700d-9. COUNTY SUPERINTENDENT'S OFFICE AND TRAVELING EXPENSES IN COUNTIES OF 13,125 TO 13,145. In counties having a population of not less than thirteen thousand, one hundred and twenty-five (13,125) and not more than thirteen thousand, one hundred and forty-five (13,145), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Acts 1937, 45th Leg., p. 142, ch. 75, Sec. 1.

Art. 2700d-10. OFFICE AND TRAVELING EXPENSES IN COUNTIES OF 30,708 TO 30,750. In counties having a population of not less than thirty thousand, seven hundred and eight (30,708) and not more than thirty thousand, seven hundred and fifty (30,750), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Five Hundred Dollars ($500) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Acts 1937, 45th Leg., p. 156, ch. 82, Sec. 1.

Art. 2700d-11. OFFICE AND TRAVELING EXPENSES IN COUNTIES OF 49,000 TO 49,025. In all counties containing a population of not less than forty-nine thousand (49,000), nor more than forty-nine thousand and twenty-five (49,025), according to the last preceding Federal Census, the County Superintendents shall receive from the available school funds of their respective counties, for office and traveling expenses, a sum not to exceed Six Hundred Dollars ($600) per annum.

Acts 1937, 45th Leg., p. 243, ch. 127, Sec. 1.

Art. 2700d-12. OFFICE AND TRAVELING EXPENSES IN COUNTIES OF 29,400 TO 29,450 AND OTHER COUNTIES.

Section 1. In counties having a population of not less than twenty-nine thousand, four hundred (29,400) and not more than twenty-nine thousand, four hundred and fifty (29,450), in counties having a population of not less than thirteen thousand, six hundred (13,600) and not more than thirteen thousand, seven hundred (13,700), and counties having a population of not less than thirty four thousand, six hundred and forty (34,640) and not more than thirty four thousand, six hundred and sixty (34,660), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-a. In counties having a population of not less than thirteen thousand, six hundred and thirty-seven (13,637) and not more than thirteen thousand, six hundred and forty (13,640) according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction;

provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent; and provided further that the provisions of this Act shall apply to counties having a population of not less than seventeen thousand, five hundred and fifty-five (17,555) and not more than seventeen thousand, five hundred and sixty (17,560) according to the last preceding Federal Census, and that the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Acts 1937, 45th Leg., p. 199, ch. 105.

Art. 2700d-13. OFFICE AND TRAVELING EXPENSES IN COUNTIES OF 32,400 TO 32,500. In counties having a population of not less than thirty-two thousand, four hundred (32,400) and not more than thirty-two thousand, five hundred (32,500), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of One Thousand Dollars ($1,000) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Acts 1937, 45th Leg., p. 254, ch. 132, Sec. 1.

Art. 2700d-14. OFFICE AND TRAVELING EXPENSES IN COUNTIES OF 27,441 TO 27,450 AND OTHER COUNTIES. In counties having a population of not less than twenty-seven thousand, four hundred and forty-one (27,441) and not more than twenty-seven thousand, four hundred and fifty (27,450), and in counties having a population of not less than

twenty thousand and forty-eight (20,048) and not more than twenty thousand and fifty-five (20,055), and in counties having a population of not less than twenty-five thousand, three hundred and ninety-four (25,394) and not more than twenty-five thousand, four hundred (25,400), and in counties having a population of not less than ten thousand, nine hundred seventy-five (10,975) and not more than ten thousand, nine hundred and eighty-five (10,985), according to the last preceding Federal Census, and the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; providing that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Acts 1937, 45th Leg., p. 258, ch. 135, Sec. 1.

Art. 2700d-15. OFFICE AND TRAVELING EXPENSES IN COUNTIES OF 10,050 TO 10,075 AND CERTAIN OTHER COUNTIES.

Section 1. In counties having a population of not less than ten thousand and fifty (10,050) and not more than ten thousand and seventy-five (10,075), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 1-a. In counties having a population of not less than thirty-two thousand, three hundred and twelve (32,312) and not more than thirty-two thousand, three hundred and twenty (32,320), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions that they deem necessary for office and traveling expenses of County Superintendent of Public Instruction, provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred

Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of office of the County Superintendent.

Sec. 1-b. In counties having a population of not more than twenty-four thousand, one hundred and eighty (24,180) and not less than twenty-four thousand and forty (24,040) and in counties having a population of not more than forty-six thousand, two hundred and eighty (46,280) and not less than forty-six thousand, one hundred and eighty (46,180), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions that they deem necessary for office and traveling expenses of County Superintendent of Public Instruction, provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of office of the County Superintendent.

Acts 1937, 45th Leg., p. 395, ch. 197.

Art. 2700d-16. OFFICE AND TRAVELING EXPENSES OF COUNTY SUPERINTENDENTS AND ASSISTANTS IN COUNTIES OF ENUMERATED POPULATION. In counties with a population of not less than sixteen thousand, six hundred (16,600) and not more than seventeen thousand, sixty (17,060); and in counties having a population of not less than thirty-eight thousand, seven hundred and sixty (38,760) inhabitants and not more than thirty-eight thousand, seven hundred and eighty (38,780) inhabitants; and in counties having a population of not less than twenty-six thousand, three hundred and eighty-two (26,382) and not more than twenty-six thousand, four hundred (26,400) inhabitants; and in counties having a population of not less than twenty-three thousand, six hundred and sixty-nine (23,669) nor more than twenty-three thousand, seven hundred and seventy-five (23,775) inhabitants; and in counties having a population of not less than nineteen thousand, one hundred and seventy-three (19,173) nor more than nineteen thousand, one hundred and eighty-three (19,183) inhabitants; and in counties having a population of not less than seventeen thousand, five hundred and sixty-five (17,565) nor more than seventeen thousand, five hundred and eighty-five (17,585) inhabitants; and in counties having a population of not less than

forty-eight thousand, five hundred and eighteen (48,518) nor more than forty-eight thousand, five hundred and thirty-eight (48,538) inhabitants; and in counties having a population of not less than fifty-three thousand, nine hundred and twenty-five (53,925) nor more than fifty-three thousand, nine hundred and forty-seven (53,947) inhabitants; and in counties having a population of not less than thirty-three thousand, three hundred and seven (33,307) nor more than thirty-three thousand, three hundred and twenty-eight (33,328) inhabitants; and in counties having a population of not less than thirty-one thousand, three hundred and ninety-five (31,395) nor more than thirty-one thousand, four hundred (31,400) inhabitants; and in counties having a population of not less than fourteen thousand, nine hundred and ten (14,910) nor more than fourteen thousand, nine hundred and seventeen (14,917) inhabitants; and in counties having a population of not less than eight thousand, six hundred (8,600) nor more than eight thousand, six hundred and ten (8,610) inhabitants; and in counties having a population of not less than five thousand, six hundred and sixty-five (5,665) nor more than five thousand, six hundred and seventy (5,670) inhabitants; and in counties having a population of not less than twelve thousand, one hundred and eighty-five (12,185) nor more than twelve thousand, one hundred and ninety (12,190) inhabitants; and in counties having a population of not less than five thousand, five hundred and eighty-five (5,585) nor more than five thousand, five hundred and eighty-nine (5,589) inhabitants; and in counties having a population of not less than forty-one thousand, twenty (41,020) nor more than forty-one thousand, thirty (41,030) inhabitants; and in counties having a population of not less than forty-three thousand, thirty-five (43,035) nor more than forty-three thousand, forty (43,040) inhabitants; and in counties having a population of not less than twenty thousand, one hundred (20,100) nor more than twenty thousand, one hundred and fifty (20,150) inhabitants; and in counties having a population of not less than nine thousand, twenty-five (9,025) nor more than nine thousand, fifty (9,050) inhabitants; and in counties having a population of not less than thirty-nine thousand, one hundred (39,100) and not more than thirty-nine thousand, one hundred and ten (39,110) inhabitants; and in counties having a population of not less than twelve thousand, three hundred and seventy (12,370) nor more than twelve thousand, three hundred and eighty (12,380) inhabitants; and in counties having a population of not less than

thirteen thousand, five hundred and seventy (13,570) and not more than thirteen thousand, five hundred and eighty (13,580) inhabitants; and in counties having a population of not less than thirty-four thousand, one hundred and fifty-five (34,155) nor more than thirty-four thousand, one hundred and sixty (34,160) inhabitants; and in counties having a population of not less than twelve thousand, seven hundred and eighty-five (12,785) nor more than twelve thousand, seven hundred and ninety (12,790) inhabitants; and in counties having a population of not less than nineteen thousand, three hundred and twenty (19,320) nor more than nineteen thousand, three hundred and twenty-five (19,325) inhabitants; and in counties having a population of not less than fourteen thousand, one hundred and eighty (14,180) nor more than fourteen thousand, one hundred and eighty-five (14,185) inhabitants; and in counties having a population of not less than twenty-four thousand, two hundred and thirty (24,230) nor more than twenty-four thousand, two hundred and thirty-five (24,235) inhabitants; and in counties having a population of not less than six thousand, six hundred and ninety-five (6,695) nor more than six thousand, seven hundred (6,700) inhabitants; and in counties having a population of not less than sixteen thousand, five hundred and sixty (16,560) nor more than sixteen thousand, five hundred and sixty-five (16,565) inhabitants; and in counties having a population of not less than five thousand, two hundred and fifty (5,250) nor more than five thousand, two hundred and fifty-five (5,255) inhabitants; and in counties having a population of not less than sixteen thousand, six hundred and sixty-five (16,665) nor more than sixteen thousand, six hundred and seventy (16,670) inhabitants; and in counties having a population of not less than twelve thousand, three hundred and sixty (12,360) nor more than twelve thousand, four hundred and twenty (12,420) inhabitants; and in counties having a population of not less than thirteen thousand, five hundred and sixty (13,560) nor more than thirteen thousand, five hundred and eighty-five (13,585) inhabitants; and in counties having a population of not less than eight thousand, five hundred and ninety (8,590) nor more than eight thousand, eight hundred and ninety (8,890) inhabitants; and in counties having a population of not less than nine thousand, two hundred and ninety (9,290) and not more than nine thousand, four hundred (9,400) inhabitants; and in counties having a population of not less than six thousand, eight hundred (6,800) and not more than six thousand, eight hundred and thirty (6,830)

inhabitants; and in counties having a population of not less than seventeen thousand, four hundred and forty-five (17,445) and not more than seventeen thousand, four hundred and sixty-five (17,465) inhabitants; and in counties having a population of not less than eleven thousand, twenty-one (11,021) and not more than eleven thousand, fifty (11,050) inhabitants; and in counties having a population of not less than sixteen thousand, twenty (16,020) and not more than sixteen thousand, five hundred (16,500) inhabitants according to the last Federal Census in each instance, the County Boards of Trustees may make such provisions as they deem necessary for office and/or traveling expenses of the County Superintendent of Public Instruction, and any assistant he may have; provided that the amount of such expenditures for such necessary office and/or traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount of such expenses so allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent of Public Instruction.

Acts 1937, 45th Leg., p. 836, ch. 411, Sec. 1.

Art. 2700d-17. SALARY AND EXPENSES OF SUPERINTENDENTS IN COUNTIES OF ENUMERATED POPULATION.

Section 1. SALARIES IN CERTAIN COUNTIES. In all counties of the State of Texas having a population of not less than thirty-two thousand eight hundred (32,800) and not more than thirty-two thousand eight hundred thirty (32,830), and in all counties having a population of not less than twenty-four thousand (24,000) and not more than twenty-four thousand sixty-three (24,063), and in all counties having a population of not less than thirty-seven thousand nine hundred (37,900) and not more than thirty-seven thousand nine hundred fifty (37,950), and in counties having a population of not less than twenty-seven thousand four hundred twenty-five (27,425) and not more than twenty-seven thousand four hundred sixty (27,460), and in counties having a population of not less than thirty-one thousand three hundred twenty-five (31,325) and not more than thirty-one thousand four hundred twenty-five (31,425) and in counties having a population of not less than forty-eight thousand five hundred

(48,500) and not more than forty-eight thousand five hundred seventy-five (48,575), and in counties having a population of not less than eleven thousand four hundred (11,400) and not more than eleven thousand five hundred (11,500), and in counties having a population of not less than seventeen thousand seven hundred sixty (17,760) and not more than seventeen thousand seven hundred eighty (17,780), the salary of the County Superintendent of Public Instruction shall be not less than Two Thousand Seven Hundred Fifty ($2,750.00) Dollars and not more than Three Thousand ($3,000.00) Dollars per annum, the amount of which salary shall be fixed by the order of the County Board of Education for the respective counties, and the County Board of Education for each of the counties coming within this bill shall, by order entered in its minutes, set the salary for each of their respective counties.

Sec. 2. ALLOWANCE OUT OF STATE AND COUNTY AVAILABLE SCHOOL FUND; PRORATION OF ALLOWANCE. In making the annual per capita apportionment to the public free schools, the County Board of Education of each of the several counties mentioned in Section 1 of this Act shall also make an annual allowance out of the State and County Available School Fund not exceeding the sum of Three Thousand ($3,000.00) Dollars for the salary of the County Superintendent of Public Instruction and Six Hundred ($600.00) Dollars for traveling expenses incidental to and necessary in the administration of the County Superintendent's office annually, and the same shall be prorated to the schools in said county in proportion to the scholastic population of each school district in each of said respective counties, and the Commissioners' Court of each of said counties may expend out of the General Fund of said counties not to exceed Three Hundred ($300.00) Dollars per annum to defray the office expenses for stamps, stationery, telephone, and printing, incidental to and necessary in the efficient administration of the schools of said counties respectively.

Sec. 3. SALARIES IN COUNTIES HAVING ENUMERATED POPULATION. In all counties of the state of Texas having a population of not less than sixteen thousand five hundred fifty (16,550) nor more than sixteen thousand six hundred (16,600) according to the last United States Federal Census, the salary of the County Superintendent of Public Instruction shall be fixed by order of the County Board of Education in and for such counties at an amount not less than Eighteen Hundred ($1800.00) Dollars per year nor more than Two

Thousand Two Hundred and Fifty ($2,250.00) Dollars per year, and said salary shall be exclusive of any and all traveling expenses allowed by law; and in all counties having a population of not less than seventeen thousand five hundred sixty-five (17,565) nor more than seventeen thousand six hundred (17,600) according to the last preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be fixed by order of the County Board of Education in and for such counties at an amount not less than Nineteen Hundred ($1900.00) Dollars per year nor more than Two Thousand Two Hundred and Fifty ($2,250.00) Dollars per year, and said salary shall be exclusive of any and all traveling expenses allowed by law.

Sec. 4. TIME FOR PAYMENT OF SALARIES AND EXPENSES. The salary and traveling expenses provided for herein shall be paid monthly, upon the order of the County Board of Education; provided that the salary for the month of September shall not be paid until the said County Superintedent submits a certificate from the State Superintendent of Public Instruction showing that all reports required have been made to the State Department of Education. That the office expenses provided herein shall be paid by the County Treasurer on the order of the Commissioners' Court as said expenses may be incurred.

Acts 1937, 45th Leg., p. 1276, ch. 477.

Art. 2700d-18. SALARY AND EXPENSES OF SUPERINTENDENTS IN COUNTIES OF ENUMERATED POPULATION.

Section 1. SALARIES IN CERTAIN COUNTIES. In counties having a population of not less than twenty-one thousand, eight hundred and sixteen (21,816) and not more than twenty-one thousand, eight hundred and twenty-six (21,826); in all counties having a population of not less than forty-one thousand (41,000) and not more than forty-two thousand (42,000); in counties having a population of not less than thirteen thousand, three hundred and eighty-five (13,385) and not more than thirteen thousand, three hundred and ninety-five (13,395); in counties having a population of not less than nineteen thousand, eight hundred and forty-three (19,843) and not more than nineteen thousand, eight hundred and fifty-three (19,853); in counties having

a population of not less than thirty-six thousand (36,000) and not more than thirty-six thousand and fifty (36,050); and in counties having a population of not less than twenty-nine thousand, seven hundred (29,700) and not more than twenty-nine thousand, seven hundred and fifty (29,750) according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; providing that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum.

Sec. 2. SALARIES IN CERTAIN COUNTIES. In all Counties of the State of Texas having a population of not less than seventeen thousand six hundred and sixty (17,660) inhabitants and not more than seventeen thousand eight hundred and fifty (17,850) inhabitants according to the preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be not less than Two Thousand Seven Hundred Fifty ($2,750.00) Dollars and not more than Three Thousand ($3,000.00) Dollars per annum; and in all Counties of the State of Texas having a population of not less than twenty nine thousand seven hundred (29,700) and not more than twenty nine thousand seven hundred fifty (29,750) inhabitants according to the last preceding Federal Census, the salary of the County Superintendent shall from and after the passage of this Act be not less than the sum of Twenty Four Hundred ($2,400.00) Dollars per annum nor more than the sum of Three Thousand ($3,000.00) Dollars per annum, the amount of which salary shall be fixed by the order of the County Board of Education for the said Counties, and the County Board of Education for each of the Counties coming within the terms of this bill shall by order entered in its minutes set the salary for each of their respective Counties.

The amount of salaries allowed hereunder shall be paid in the manner and in accordance with the now existing laws governing the maintenance of the office of the County Superintendent; provided, however, the salary herein provided for shall be paid monthly upon order of the County School Trustees; and provided further that the salary for the month of September shall not be paid until the County Superintendent of Public Instruction shall have presented a receipt or a certificate from the State Superintendent of Public Instruction showing that he has made all the reports required of him by the State Superintendent of Public Instruction.

Sec. 2a. ALLOWANCE OUT OF STATE AND COUNTY AVAILABLE SCHOOL FUND; PRORATION OF ALLOWANCE. In making the annual per capita apportionment to the public free schools, the County Board of Education of each of the counties coming under Section 2 of this Act shall also make an annual allowance out of the State and County Available School Fund not exceeding the sum of Three Thousand Dollars ($3,000) for the salary of the County Superintendent of Public Instruction and Six Hundred Dollars ($600) for traveling expenses incidental to and necessary in the administration of the County Superintendent's office annually, and the same shall be prorated to the schools in said counties in proportion to the scholastic population of each school district in each of said respective counties, and the Commissioners Court of each of said counties may expend out of the General Fund of said counties not to exceed Three Hundred Dollars ($300) per annum to defray the office expenses for stamps, stationery, telephone, and printing, incidental to and necessary in the efficient administration of the schools of said counties respectively.

Sec. 2b. MONTHLY PAYMENTS OF SALARIES AND EXPENSES; PREREQUISITES. The salary and traveling expenses provided for in Sections 2 and 2a shall be paid monthly, upon the order of the County Board of Education; provided that the salary for the month of September shall not be paid until the said County Superintendent submits a certificate from the State Superintendent of Public Instruction showing that all reports required have been made to the State Department of Education. That the office expenses provided herein shall be paid by the County Treasurer on the order of the Commissioners Court as said expenses may be incurred.

Sec. 2c. SALARIES AND EXPENSES IN COUNTIES OF 30,000 TO 30,100 POPULATION. In all counties in the State of Texas having a population of not less than thirty thousand (30,000) nor more than thirty thousand and one hundred (30,100), according to the last preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be not less than Twenty-seven Hundred and Fifty Dollars ($2,750) nor more than Three Thousand Dollars ($3,000) per annum, the amount of which salary shall be fixed by the order of the County Board of Education for the respective county.

Subsection 1. In making the annual per capita apportionment to the public free schools, the County Board of Education of each such county mentioned in Section 1 of this Act shall also make an annual

allowance out of the State and County Available School Fund not exceeding the sum of Three Thousand Dollars ($3,000) for the salary of the County Superintendent of Public Instruction and Six Hundred Dollars ($600) for traveling expenses incidental to and necessary in the administration of the County Superintendent's office annually, and the same shall be prorated to the schools in said county in proportion to the scholastic population of each school district in each of said respective counties, and the Commissioners Court of each of said counties may expend out of the General Fund of said county not to exceed Three Hundred Dollars ($300) per annum to defray the office expense for stamps, stationery, telephone and printing incidental to and necessary in the efficient administration of the schools in said counties respectively.

Subsection 2. The salary and traveling expenses provided for herein shall be paid monthly on the order of the County Board of Education; provided that the salary for the month of September shall not be paid until the County Superintendent submits a certificate from the State Superintendent of Public Instruction showing that all reports required have been made to the State Department of Education. That the office expense provided herein shall be paid by the County Treasurer on the order of the Commissioners Court as said expenses may be incurred.

Acts 1937, 45th Leg., 1st C.S., p. 1805, ch. 29; Acts 1939, 46th Leg., Spec.L., p. 632, Sec. 1.

Art. 2700d-19. COUNTY SUPERINTENDENT--EXPENSES.

Section 1. COUNTIES TO WHICH APPLICABLE. In counties having a population of not less than twenty-one thousand, eight hundred and thirty-five (21,835) and not more than twenty-one thousand, eight hundred and fifty (21,850), and in counties having a population of not less than fifty thousand (50,000) and not more than fifty thousand, one hundred (50,100), and in counties having a population of not less than forty-eight thousand, nine hundred (48,900) and not more than forty-nine thousand (49,000), according to the last preceding Federal Census, the county boards of trustees may make such provisions as they deem necessary for office and traveling expenses of the county superintendent of public instruction; provided that the amount of such expenditures for office and traveling expenses

shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the county superintendent.

Sec. 2. ACT CUMULATIVE. The provisions of this Act shall be cumulative of all General Laws on the subject and where not otherwise provided herein, such General Laws shall apply; but, in case of conflict, the provisions of this Act shall control and be effective.

Acts 1937, 45th Leg., 2nd C.S., p. 1944, ch. 43.

Art. 2700d-20. SUPERINTENDENT'S SALARY IN COUNTIES OF 15,760 TO 15,790. From and after the effective date of this Act in all counties having a population of not less than fifteen thousand, seven hundred and sixty (15,760) and not more than fifteen thousand, seven hundred and ninety (15,790), and having an area of three hundred and twelve (312) square miles according to the last preceding Federal Census, the county board of trustees shall make provision for the salary of the county superintendent of public instruction in the sum of Four Thousand Dollars ($4,000) per year and no more. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the payment of maintenance and salaries of county superintendents.

Acts 1939, 46th Leg., Spec.L., p. 631, Sec. 1.

Art. 2700d-21. TRAVELING EXPENSES OF SUPERINTENDENTS IN COUNTIES OF 15,725 TO 15,775 POPULATION. From and after the passage of this Act that all County Superintendents of Public Instruction in all counties having a population of not less than fifteen thousand seven hundred twenty-five (15,725) and not more than fifteen thousand seven hundred seventy-five (15,775) according to the last preceding Federal Census shall be and are allowed an additional Five Hundred ($500.00) Dollars per year for traveling expenses.

Acts 1939, 46th Leg., Spec.L., p. 652, Sec. 1.

Art. 2700d-22. SALARY AND EXPENSES OF SUPERINTENDENTS IN COUNTIES OF ENUMERATED POPULATION.

Section 1. COUNTIES WITH 50,000 TO 51,000; 38,765 TO 38,775; 29,210 TO 29,630. From and after the passage of this Act in all counties of the State of Texas having a population of not less than fifty thousand (50,000) and not more than fifty-one thousand (51,000), according to the last preceding Federal Census, the salary of the county superintendent of public instruction shall be not less than Three Thousand, Three Hundred Dollars ($3,300) nor more than Three Thousand, Six Hundred Dollars ($3,600) per annum to be fixed by order of the board of education of such counties; and in counties having a population of not less than thirty-eight thousand, seven hundred and sixty-five (38,765) and not more than thirty-eight thousand, seven hundred and seventy-five (38,775), according to the last preceding Federal Census, the salary of the county superintendent of public instruction shall be Three Thousand, Three Hundred Dollars ($3,300) per annum; all counties in this State which have a population of not less than twenty-nine thousand, two hundred and ten (29,210) and not more than twenty-nine thousand, six hundred and thirty (29,630) according to the last preceding Federal Census, the salary of the county superintendent of public instruction shall be Three Thousand Dollars ($3,000) per year or Two Hundred and Fifty Dollars ($250) per month, to be paid in accordance with and in the manner as provided by general law governing the maintenance of the office of county superintendent, as provided in Article 2700, Revised Civil Statutes of Texas of 1925.

Sec. 2. COUNTIES OF 77,750 TO 77,800. In counties having a population of not less than seventy-seven thousand, seven hundred and fifty (77,750) and not more than seventy-seven thousand, eight hundred (77,800), according to the last preceding Federal Census, the salary of the county superintendent of public instruction shall be Three Thousand, Six Hundred Dollars ($3,600) per annum. Such salary shall be paid in accordance with existing laws governing such office.

Sec. 3. COUNTIES OF NOT OVER 70,000 WITH TWO CITIES OVER 13,800. From and after the passage of this Act in all counties of the State of Texas having a population of not more than seventy thousand (70,000), according to the last preceding Federal Census, and having at least two (2) incorporated cities within their boundary with a population of more than thirteen thousand, eight hundred (13,800) each, according to the last preceding Federal Census, the salary of

the county superintendent of public instruction shall be not less than the sum of Two Thousand, Eight Hundred Dollars ($2,800) per annum nor more than the sum of Three Thousand, Eight Hundred Dollars ($3,800) per annum, to be fixed by the county board of education of each of such counties, and in making the annual per capita apportionment to the schools of such counties, the county board of education of such counties shall make an annual allowance out of the State and county available school funds for the payment of the salary of the superintendents of public instruction for such counties; and in addition thereto, office expenses of an amount not in excess of Three Hundred Dollars ($300) per annum for stamps, stationery and telephone; and said county board of education is also authorized to allow for traveling expenses of such county superintendents a sum not in excess of Three Hundred Dollars ($300) per annum to defray the expenses incurred by such county superintendents, which said sum shall be paid by said county board of education upon certificate of such superintendents that the expenses have been incurred in the discharge of their duties as such superintendents, and the salary and expenses herein provided to be paid monthly upon the order of the school trustees; providing that the salaries for the month of September shall not be paid until the county superintendent of public instruction shall have presented a receipt or certificate from the State Superintendent of Public Instruction showing that he has made all reports required of him, that the expenses provided for herein shall be paid monthly by the county treasurer on the order of the county board of education.

Sec. 4. COUNTIES OF 20,000 TO 20,050. In counties having a population of not less than twenty thousand (20,000) and not more than twenty thousand and fifty (20,050) according to the last preceding Federal Census, the salary of the county superintendent of public instruction shall be not less than the sum of Two Thousand, Five Hundred Dollars ($2,500) per annum nor more than the sum of Three Thousand, Two Hundred Dollars ($3,200) per annum, the amount of which salary shall be fixed by order of the county board of education for the respective counties, and the county board of education for each county coming within this section shall, by order entered in its minutes, set the salary for each of the respective counties. The salary allowed shall be paid in the manner and in accordance with existing laws governing the office of the county superintendent of public instruction.

Sec. 5. COUNTIES OF 23,000 TO 23,400; 17,600 TO 17,650; 15,700 TO 15,730. That the salary of the county superintendent of public instruction in all counties in Texas having not less than twenty-three thousand, three hundred (23,300) nor more than twenty-three thousand, four hundred (23,400) population, according to the last preceding Federal Census, and in all counties having not less than seventeen thousand, six hundred (17,600) nor more than seventeen thousand, six hundred and fifty (17,650) population, according to the last preceding Federal Census; in all counties having not less than fifteen thousand, seven hundred (15,700) nor more than fifteen thousand, seven hundred and thirty (15,730) population, according to the last preceding Federal Census, shall be, from and after the effective date of this Act, Two Thousand, Six Hundred Dollars ($2,600) per year to be paid in twelve equal payments out of the State and county available school fund of such counties.

Sec. 6. COUNTIES OF 30,275 TO 30,300. From and after the passage of this Act in all counties of the State of Texas having a population of not more than thirty thousand, three hundred (30,300) nor less than thirty thousand, two hundred and seventy-five (30,275), according to the last preceding Federal Census, shall be not less than the sum of Two Thousand, Four Hundred Dollars ($2,400) per annum nor more than the sum of Three Thousand, Two Hundred Dollars ($3,200) per annum to be fixed by the county board of education of each of such counties, and in making the annual per capita apportionment to the schools of such counties, the county board of education of such counties shall make an annual allowance out of the State and county available school funds for the payment of the salary of the superintendent of public instruction for such counties payable in twelve equal payments out of the State and county available school fund of such counties.

Sec. 7. COUNTIES OF 18,000 TO 18,500. In all counties having a population of not less than eighteen thousand (18,000) and not more than eighteen thousand, five hundred (18,500), according to the last preceding Federal Census, the county board of education shall, in addition to the salaries and expenses fixed by law, allow not to exceed the sum of Three Hundred Dollars ($300) per annum for the actual traveling expenses of such county superintendents made in the performance of their duties as county superintendents and to be paid out of the State and county available school fund of such counties on order of the county board of education of such counties on the

verified account of such county superintendents.

Sec. 8. CONFLICTING LAWS; ACT AS CUMULATIVE. All laws and parts of laws, whether here referred to by article, title or number or not, general or special, in conflict herewith, are hereby modified and limited to the extent that they are not to be controlling, but the specific provisions of this Act shall be controlling in the counties to which it is made applicable. The provisions of this Act are cumulative of the general law on the subject, and where not otherwise modified hereby such general laws are made applicable.

Acts 1939, 46th Leg., Spec.L., p. 643.

Art. 2700d-23. EXPENSES OF SUPERINTENDENT AND TRUSTEES IN ADMINISTRATION OF SCHOLASTIC AFFAIRS IN CERTAIN COUNTIES. In each county of this State with a population of not less than thirty thousand, nine hundred and twenty (30,920) and not more than thirty thousand, nine hundred and twenty-five (30,925), and in counties having a population of not less than fourteen thousand, four hundred and sixty (14,460) and not more than fourteen thousand, four hundred and sixty-five (14,465), and in counties having a population of not less than seven thousand, one hundred (7,100) and not more than seven thousand, one hundred and twenty-five (7,125), as shown by the Federal Census last preceding such action, the County School Board of Trustees is hereby authorized to set aside from the Available School Funds of the county, in accordance wtih the provisions of the General Law governing the assessment for the support of the County Superintendent's Office, an amount not to exceed Six Hundred Dollars ($600) to defray the expenses of the County Superintendent and County School Board of Trustees of such counties in the administration of the scholastic affairs of the county.

Acts 1939, 46th Leg., Spec.L., p. 656, Sec. 1.

Art. 2700d-24. TRAVELING AND OTHER EXPENSES OF SUPERINTENDENT IN COUNTIES OF 19,890 TO 19,905 POPULATION.

Section 1. In counties having a population of not less than nineteen thousand, eight hundred and ninety (19,890) and not more than nineteen thousand, nine hundred and five (19,905), according to

the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Sec. 2. The provisions of this Act shall be cumulative of all General Laws on the subject and, where not otherwise provided herein, such General Laws shall apply; but, in case of conflict, the provisions of this Act shall control and be effective.

Acts 1939, 46th Leg., Spec.L., p. 653.

Art. 2700d-25. SUPERINTENDENT'S SALARY IN COUNTIES OF 18,760 TO 18,960 POPULATION. In counties having a population of not less than eighteen thousand, seven hundred and sixty (18,760) and not more than eighteen thousand, nine hundred and sixty (18,960), according to the last preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be not less than the sum of One Thousand, Nine Hundred Dollars ($1,900) per annum nor more than the sum of Two Thousand, Four Hundred Dollars ($2,400) per annum, the amount of which salary shall be fixed by order of the County Board of Education for the respective counties, and the County Board of Education for each county coming within this Act shall by order entered in its Minutes, set the salary for each of the respective counties. The salary allowed shall be paid in the manner and in accordance with existing laws governing the office of the County Superintendent of Public Instruction.

Acts 1939, 46th Leg., Spec.L., p. 634, Sec. 1.

Art. 2700d-26. SUPERINTENDENT'S SALARY IN COUNTIES OF 29,750 TO 30,025 POPULATION; REPORTS.

Section 1. The salary of the County Superintendent of Public Instruction of each county in Texas, having a population of not less than twenty-nine thousand, seven hundred and fifty (29,750) nor more

than thirty thousand and twenty-five (30,025) according to the last Federal Census, shall from and after passage of this Act be not less than the sum of Three Thousand, Six Hundred Dollars ($3,600) per annum.

Sec. 2. In making the annual per capita apportionment to the schools of the counties having a population of not less then twenty-nine thousand, seven hundred and fifty (29,750) and not more than thirty thousand and twenty-five (30,025) the County School Trustees shall make an annual allowance out of the State and County Available Funds for the payment of the salary of the Superintendent of Public Instruction not less than Three Thousand, Six Hundred Dollars ($3,600).

Sec. 3. Said salary to be paid monthly upon the order of the County School Trustees, provided that said salary to the Superintendent of Public Instruction for the month of September shall not be paid until the Superintendent shall have presented a receipt or certificate from the State Superintendent of Public Instruction showing that he has made all reports required of him.

Acts 1939, 46th Leg., Spec.L., p. 640.

Art. 2700d-27. SUPERINTENDENT'S SALARIES IN COUNTIES HAVING POPULATION OF 22,100 TO 22,500; 41,050 TO 42,100; 22,600 TO 22,800; 14,550 TO 14,800; 11,021 TO 11,050; REPORTS.

Section 1. From and after the passage of this Act, the salary of the County Superintendent of Public Instruction of each county in Texas having a population of not less than twenty-two thousand, one hundred (22,100) and not more than twenty-two thousand, five hundred (22,500), according to the last preceding Federal Census, shall be Thirty-six Hundred Dollars ($3600) per annum, to be paid in equal monthly payments out of the county's available per capita apportionment coming to such counties, upon the order of the County School Trustees.

Sec. 2. The salary of the County Superintendent of Public Instruction of each county in Texas having a population of not less than forty-one thousand and fifty (41,050) and not more than forty-two thousand, one hundred (42,100), according to the last preceding Federal Census, shall from and after the passage of this Act be not

less than the sum of Two Thousand, Eight Hundred Dollars ($2,800) per annum and not more than Three Thousand, Six Hundred Dollars ($3,600) per annum to be fixed by the County Board of Education of each county; and in addition thereto, the county superintendents of such counties shall receive office expenses for stamps, telephone, and stationery not exceeding Three Hundred Dollars ($300) per annum, as well as an amount not in excess of Three Hundred Dollars ($300) per annum to defray traveling expenses incurred by such county superintendents, which said sum shall be paid by said County Board of Trustees on the certificate of such superintendent that the expenses had been incurred in the discharge of his duties as such superintendent.

Sec. 2-a. The salary and expenses provided for in Section 2 of this Act shall be paid monthly upon the order of the County School Trustees of such counties out of the county's available and State per capita apportionment coming to such counties; providing that the month of September shall not be paid until the County Superintendent of Public Instruction shall have presented a receipt or a certificate from the State Superintendent of Public Instruction showing that he has made all of the reports required by him.

Sec. 3. The salaries of the County Superintendent of Public Instruction of each county in Texas having a population of not less than twenty-two thousand, six hundred (22,600) and not more than twenty-two thousand, eight hundred (22,800), according to the last preceding Federal Census, shall from and after the passage of this Act be not less than Twenty-two Hundred Dollars ($2200) per annum and not more than Twenty-eight Hundred Dollars ($2800) per annum, and in counties having a population of not less than fourteen thousand, five hundred and fifty (14,550) and not more than fourteen thousand eight hundred (14,800), according to the last preceding Federal Census, shall from and after the passage of this Act be not less than the sum of Twenty-two Hundred Dollars ($2200) and not more than Twenty-eight Hundred Dollars ($2800) per annum, to be fixed by the County Board of Education in each county.

Sec. 4. The salary of the Superintendent of Public Instruction of each county in Texas having a population of not less than eleven thousand and twenty-one (11,021), nor more than eleven thousand and fifty (11,050), according to the latest Federal Census, shall from and after the passage of this Act be not less than Twenty-one Hundred Dollars ($2100) per annum, nor more than Twenty-four Hundred Dollars

($2400) per annum; said salary to be set by the County Board of School Trustees of each county affected.

Sec. 4-a. The salary shall be paid monthly upon the order of the County Board of School Trustees; provided that the month of September shall not be paid until the Superintendent of Public Instruction shall have presented a receipt or a certificate from the State Superintendent of Public Instruction showing that he has made all reports required by him.

Acts 1939, 46th Leg., Spec.L., p. 636.

Art. 2700d-28. SALARY AND EXPENSES OF SUPERINTENDENTS IN COUNTIES OF 197,000 TO 198,000 AND 32,400 TO 32,800 POPULATION; PRORATION OF ALLOWANCE; REPORTS.

Section 1. In all counties of the State of Texas having a population of not less than one hundred and ninety-seven thousand (197,000) and not more than one hundred and ninety-eight thousand (198,000) and all counties with a population of not less than thirty-two thousand, four hundred (32,400) and not more more than thirty-two thousand eight hundred (32,800), according to the last preceding Federal Census, the salary of the county superintendent of public instruction shall be fixed by order of the County Board of Education in and for such counties at an amount not less than Three Thousand Dollars ($3,000) per year and not more than Four Thousand, Two Hundred Dollars ($4,200) per year and said salary shall be exclusive of any and all traveling expenses allowed by law.

Sec. 2. In making the annual per capita apportionment to the public free schools, the County Board of Education of each of the counties mentioned in Section 1 of this Act shall also make an annual allowance out of the State and County Available School Funds not exceeding the sum of Six Hundred Dollars ($600) salary for traveling expenses incidental to and necessary in the administration of the county superintendent's office annually, and the same shall be prorated to the schools in said county in proportion to the scholastic population of each school district in each of said respective counties, and the Commissioners Court of said county may expend out of the General Fund of said counties not to exceed Three Hundred Dollars ($300) per annum to defray the office expenses for

stamps, stationery, telephone, etc., incidental to and necessary in the efficient administration of the schools of said counties respectively.

Sec. 3. The salary and traveling expenses provided for herein shall be paid monthly, upon the order of fhe County Board of Education; provided that the salary for the month of September shall not be paid until the said county superintendent submits a certificate from the State Superintendent of Public Instruction showing that all reports required have been made to the State Department of Education; that the office expenses provided herein shall be paid by the County Treasurer on the order of the Commissioners Court as said expenses may be incurred.

Acts 1939, 46th Leg., Spec.L., p. 649.

Art. 2700d-29. TRAVELLING EXPENSES OF SUPERINTENDENTS IN COUNTIES OF 22,500 TO 22,600 POPULATION. In all counties having a population of not less than twenty-two thousand, five hundred (22,500) and not more than twenty-two thousand, six hundred (22,600), according to the last preceding Federal Census or any subsequent Federal Census, the county board of school trustees shall make provisions for the traveling expenses of the county superintendent of public instruction, and shall make an allowance for such traveling expenses in the sum of Six Hundred Dollars ($600) per annum, and no more. The amount allowed herein shall be paid in twelve (12) monthly installments and in the same manner as the salary and maintenance of the office of county superintendents are now paid.

Acts 1939, 46th Leg., Spec.L., p. 654, Sec. 1.

Art. 2700d-30. SUPERINTENDENT'S SALARY IN COUNTIES OF 14,535 TO 14,555 POPULATION. In all counties of the State of Texas having a population of not less than fourteen thousand, five hundred and thirty-five (14,535) and not more than fourteen thousand, five hundred and fifty-five (14,555) inhabitants, according to the last preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be not less than Eighteen Hundred Dollars ($1800) and not more than Twenty-four Hundred Dollars ($2400) per annum, the amount of which salary shall be fixed by the order of the

County Boards of Education for the respective counties; and the County Board of Education for each of the counties coming within this Act shall, by order entered in its Minutes, set the salary for its respective county.

Acts 1939, 46th Leg., Spec.L., p. 630, Sec. 1.

Art. 2700d-31. TRAVELLING AND OFFICE EXPENSES OF SUPERINTENDENTS IN COUNTIES OF 13,400 TO 13,500 AND 5,180 TO 5,190 POPULATION. In all counties having a population of not less than thirteen thousand, four hundred (13,400) and not more than thirteen thousand, five hundred (13,500), and in all counties having a population of not less than five thousand, one hundred and eighty (5,180) and not more than five thousand, one hundred and ninety (5,190), according to the last preceding Federal Census, the County Board of School Trustees may make provisions for the traveling and office expenses of the County Superintendent of Public Instruction, and may make an allowance for such traveling and office expenses not exceeding the sum of Six Hundred Dollars ($600) per annum. The amount allowed herein shall be paid in twelve (12) monthly installments and in the same manner as the salary and maintenance of the office of County Superintendents are now paid.

Acts 1939, 46th Leg., Spec.L., p. 651, Sec. 1.

Art. 2700d-32. SALARY OF SUPERINTENDENT IN COUNTIES OF 23,880 TO 23,890 AND 6,000 TO 6,010 POPULATION. In all counties containing a population of not more than twenty-three thousand, eight hundred and ninety (23,890) and not less than twenty-three thousand, eight hundred and eighty (23,880) according to the Federal Census of 1930, and containing a scholastic population of not more than six thousand and ten (6,010) and not less than six thousand (6,000) according to the 1938-1939 Public School Directory of the State Department of Education, the County Superintendent of Schools shall receive from the Available School Fund of their respective counties an annual salary of not less than Two Thousand, Two Hundred Dollars ($2,200) nor more than Two Thousand, Four Hundred Dollars ($2,400), said salary to be fixed by the County Board of School Trustees of the respective counties.

Acts 1939, 46th Leg., Spec.L., p. 639, Sec. 1.

Art. 2700d-33. SALARY OF SUPERINTENDENT IN COUNTIES OF 43,125 TO 43,200 POPULATION.

Section 1. From and after the passage of this Act, in all counties of the State of Texas which had a population of not less than forty-three thousand, one hundred and twenty-five (43,125), and not more than forty-three thousand, two hundred (43,200), according to the last preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be Three Thousand, Two Hundred and Fifty Dollars ($3,250) per annum, to be paid in accordance with and in the manner as provided by a General Law governing the maintenance of the office of County Superintendent of Public Instruction.

Sec. 2. All laws and part of laws either here referred to by article, title, or number, General or Special, in conflict herewith are hereby modified and limited to the extent that they are not to be controlling, but the specific provisions of this Act shall be controlling in the counties to which it is made applicable. The provisions of this Act are cumulative of the General Law on this subject, but where not otherwise modified hereby, such General Laws are made applicable.

Acts 1939, 46th Leg., Spec.L., p. 647.

Art. 2700d-34. SALARY IN COUNTIES OF 20,790 TO 20,825 .

Section 1. From and after the passage of this Act, in all counties of the State of Texas which had a population of not less than twenty thousand, seven hundred and ninety (20,790) and not more than twenty thousand, eight hundred and twenty-five (20,825), according to the last preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be Twenty-four Hundred Dollars ($2400) per annum, to be paid in accordance with and in the manner as provided by General Law governing the maintenance of the office of County Superintendent of Public Instruction.

Sec. 2. All laws and parts of laws either here referred to by Article, Title, or Number, general or special, in conflict herewith

are hereby modified and limited to the extent that they are not to be controlling, but the specific provisions of this Act shall be controlling in the counties to which it is made applicable. The provisions of this Act are cumulative of the General Law on this subject, but where not otherwise modified hereby, such General Laws are made applicable.

Acts 1939, 46th Leg., Spec.L., p. 635.

Art. 2700d-35. SALARY AND OFFICE AND TRAVELING EXPENSES IN COUNTIES OF 10,360 TO 10,380 AND COUNTIES OF 10,399 TO 10,499.

Section 1. The salary of the Superintendent of Public Instruction in each county in Texas having a population of not less than ten thousand, three hundred and sixty (10,360) and not more than ten thousand, three hundred and eighty (10,380), and in each county having a population of not less than ten thousand, three hundred and ninety-nine (10,399) and not more than ten thousand, four hundred and ninety-nine (10,499) inhabitants, according to the last preceding Federal Census, shall from and after the passage of this Act be Twenty-four Hundred Dollars ($2400) per annum.

Sec. 2. The Superintendent of Public Instruction in each county in Texas having a population of not less than ten thousand, three hundred and sixty (10,360) and not more than ten thousand, three hundred and eighty (10,380), and in each county having a population of not less than ten thousand, three hundred and ninety-nine (10,399) and not more than ten thousand, four hundred and ninety-nine (10,499) inhabitants, according to the last preceding Federal Census, shall be allowed office and traveling expenses not exceeding Six Hundred Dollars ($600) per annum, to be paid monthly out of the Available School Fund.

Sec. 3. The salary shall be paid monthly upon the order of the County School Trustees; provided that the month of September shall not be paid until the Superintendent of Public Instruction shall have presented a receipt or certificate from the State Superintendent of Public Instruction showing that he has made all the reports required by him.

Acts 1939, 46th Leg., Spec.L., p. 628.

Art. 2700d-36. OFFICE AND TRAVELING EXPENSES IN COUNTIES OF 24,578 TO 24,580 AND COUNTIES OF 64,400 TO 64,500. In counties having a population of not less than twenty-four thousand, five hundred and seventy-eight (24,578) and not more than twenty-four thousand, five hundred and eighty (24,580), and in counties having a population of not less than sixty-four thousand, four hundred (64,400) and not more than sixty-four thousand, five hundred (64,500), according to the last preceding Federal Census, the County Boards of Trustees may make such provisions as they deem necessary for office and traveling expenses of the County Superintendent of Public Instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the County Superintendent.

Acts 1939, 46th Leg., Spec.L., p. 655, Sec. 1.

Art. 2700d-37. COUNTY SUPERINTENDENT--SALARY AND EXPENSES--COMPENSATION OF SCHOOL TRUSTEES--COUNTIES OF 13,450 TO 13,600 AND 19,950 TO 20,100 POPULATION. In counties with a population according to the last preceding Federal Census of not less than thirteen thousand, four hundred and fifty (13,450) and not more than thirteen thousand, six hundred (13,600) and of not less then nineteen thousand, nine hundred and fifty (19,950) nor more than twenty thousand, one hundred (20,100), the salary of the county superintendent of public instruction shall be fixed by the Commissioners Court at not less than Eighteen Hundred Dollars ($1800), nor more than Twenty-two Hundred Dollars ($2200) per annum, and office and travelling expenses not exceeding Four Hundred Dollars ($400) per annum may be allowed, when necessarily incurred by the superintendent in the discharge of the duties of the office, out of the State and county available school funds, provided further, that the Commissioners Court may expend from the general fund of the county not exceeding Two Hundred Dollars ($200) per annum for the purpose of supplementing the office expenses of the county superintendent of public instruction. The compensation of each county school trustee in such counties shall be Five Dollars ($5) per day, but not more than Sixty Dollars ($60) shall be paid any trustee

in any one year, payment thereof to be made in the manner provided by existing law.

Acts 1939, 46th Leg., Spec.L., p. 629, Sec. 1.

Art. 2700d-38. SALARIES IN COUNTIES OF 34,600 TO 34,700 AND COUNTIES OF 13,800 TO 13,900.

Section 1. From and after the passage of this Act, in all counties of the State of Texas which had a population of not less than thirty-four thousand, six hundred (34,600) and not more than thirty-four thousand, seven hundred (34,700), according to the last preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be set by the County Board of Trustees at an amount not to exceed Thirty-six Hundred Dollars ($3600) per annum and not less than Twenty-eight Hundred Dollars ($2800) per annum to be paid in accordance with and in the manner as provided by a General Law governing the maintenance of the office of County Superintendent of Public Instruction.

Sec. 1a. From and after the passage of this Act, in all counties of the State of Texas which had a population of not less than thirteen thousand, eight hundred (13,800) and not more than thirteen thousand, nine hundred (13,900), according to the last preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be set by the County Board of Trustees at an amount not to exceed Twenty-two Hundred and Fifty Dollars ($2250) and not less than Eighteen Hundred Dollars ($1800) and traveling and other expenses as now allowed by General Law to be paid in accordance with and in the manner as provided by the General Law governing the maintenance of the office of County Superintendent of Public Instruction.

Acts 1939, 46th Leg., Spec.L., p. 641.

Art. 2700d-39. SALARIES IN COUNTIES OF 77,000 TO 77,600; 51,770 TO 51,800; 12,190 TO 12,200; 13,400 TO 13,500; 27,500 TO 27,600. From and after the passage of this Act in all counties of the State of Texas which have a population of not less than seventy-seven thousand (77,000) and not more than seventy-seven thousand, six

hundred (77,600), and in all counties of the State of Texas which have a population of not less than fifty-one thousand, seven hundred and seventy (51,770) and not more than fifty-one thousand, eight hundred (51,800), according to the last preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be Thirty-six Hundred Dollars ($3600) per annum; and in all counties of the State of Texas which have a population of not less than twelve thousand, one hundred and ninety (12,190) and not more than twelve thousand, two hundred (12,200), according to the last preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be Three Thousand Dollars ($3,000) per annum; and in all counties of the State of Texas which have a population of not less than thirteen thousand, four hundred (13,400) and not more than thirteen thousand, five hundred (13,500), according to the last preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be Twenty-eight Hundred Dollars ($2800) per annum; and in all counties of the State of Texas which have a population of not less than twenty-seven thousand, five hundred (27,500) and not more than twenty-seven thousand, six hundred (27,600), according to the last preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be Twenty-four Hundred Dollars ($2400) per annum, to be paid in accordance with and in the manner as provided by the general law governing the maintenance of the office of County Superintendent, as provided in Article 2700, Revised Civil Statutes, 1925.

Acts 1939, 46th Leg., Spec.L., p. 648, Sec. 1.

Art. 2700d-40. COUNTY SUPERINTENDENT--SALARIES--COUNTIES OF 23,620 TO 23,800 AND 12,460 TO 12,780 POPULATION.

Section 1. From and after the effective date of this Act, the salaries of county superintendents of public instruction in all counties in this State having a population of not less than twenty-three thousand, six hundred and twenty (23,620) nor more than twenty-three thousand, eight hundred (23,800), according to the last Federal Census, shall be in a sum not less than Twenty-two Hundred Dollars ($2200) and not more than Three Thousand Dollars ($3,000). The salaries of county superintendents of public instruction in all

counties in this State having a population of not less than twelve thousand, four hundred and sixty (12,460) and not more than twelve thousand seven hundred and eighty (12,780), according to the last preceding Federal Census, shall be in a sum not less than Eighteen Hundred Dollars ($1800) and not more than Twenty-four Hundred Dollars ($2400).

Sec. 2. In making the annual per capita apportionments in the schools of the counties coming within the provisions of this Act, the county school trustees shall provided for the payment of the salaries hereinabove named, to be paid monthly upon the order of the county school trustees, that is to say, the annual salaries shall be divided by twelve (12) and the amount determined by such division shall be paid monthly to such superintendents.

Acts 1939, 46th Leg., Spec.L., p. 638.

Art. 2700d-41. OFFICE AND TRAVELING EXPENSES OF COUNTY SUPERINTENDENT OR EX OFFICIO COUNTY SUPERINTENDENT IN COUNTIES OF 8,200 TO 8,500. In counties having a population of not less than eight thousand, two hundred (8,200) and not more than eight thousand, five hundred (8,500), according to the last preceding Federal Census, the county board of trustees may make such provisions as they deem necessary for office and traveling expenses of the county superintendent of public instruction or, if the county has no county superintendent, for the County Judge when acting as ex officio county superintendent of public instruction; provided that the amount of such expenditures for office and traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the county superintendent.

Acts 1941, 47th Leg., p. 396, ch. 229, Sec. 1.

Art. 2700d-42. TRAVELING EXPENSES OF EX OFFICIO COUNTY SUPERINTENDENT OR ASSISTANT IN COUNTIES OF 9,070 TO 9,200. In counties with a population of not less than nine thousand and seventy (9,070) nor more than nine thousand, two hundred (9,200), as shown by the Federal Census of 1940, the county board of trustees may make such provisions as they deem necessary for traveling expenses of the

ex officio county superintendent or any assistant he may have, provided that the amount of the traveling expenses shall not exceed the sum of Six Hundred Dollars ($600) per annum. The amount of such expenses so allowed shall be paid in the manner and in accordance with now existing laws governing the maintenance of the office of the ex officio county superintendent.

Acts 1941, 47th Leg., p. 442, ch. 278, Sec. 1.

Art. 2700d-43. SALARY AND OFFICE AND TRAVELING EXPENSES OF COUNTY SUPERINTENDENT IN CERTAIN COUNTIES.

Section 1. From and after the passage of this Act in all counties of the State of Texas which have a population of not less than eighty-three thousand (83,000) and not more than eighty-four thousand (84,000); and in all those counties of the State of Texas which have a population of not less than twenty thousand, five hundred and sixty (20,560) and not more than twenty thousand, five hundred and seventy (20,570); and in all those counties having not less than twenty thousand, two hundred and thirty (20,230) and not more than twenty thousand, two hundred and fifty (20,250); and in all counties of the State of Texas which have a population of not less than thirteen thousand, three hundred and twelve (13,312) and not more than thirteen thousand, three hundred and fifteen (13,315); and in all those counties of the State of Texas having a population of not less than thirteen thousand, two hundred and thirty (13,230) and not more than thirteen thousand, two hundred and thirty-five (13,235), according to the last preceding Federal Census, the salary of the County Superintendent of Public Instruction shall be Thirty-six Hundred Dollars ($3600) per annum; to be paid in accordance with and in the manner as provided by the General Law governing the maintenance of the office of County Superintendent, as provided in Article 2700, Revised Civil Statutes, 1925.

Sec. 2. From and after the passage of this Act, in all counties of the State of Texas which have a population of not less than eighty-three thousand (83,000) and not more than eighty-four thousand (84,000); and in all those counties of the State of Texas which have a population of not less than twenty thousand, five hundred and sixty (20,560) and not more than twenty thousand, five hundred and seventy

(20,570); and in all those counties of the State of Texas which have a population of not less than twenty thousand, two hundred and thirty (20,230) and not more than twenty thousand, two hundred and fifty (20,250); and in all those counties of the State of Texas which have a population of not less than thirteen thousand, three hundred and twelve (13,312) and not more than thirteen thousand, three hundred and fifteen (13,315); and in all those counties of the State of Texas which have a population of not less than thirteen thousand, two hundred and thirty (13,230) and not more than thirteen thousand, two hundred and thirty-five (13,235), according to the last preceding Federal Census, the amount which shall be allowed for office and travel expenditures for the County Superintendent of Public Instruction shall be Six Hundred Dollars ($600) per annum.

Sec. 3. All laws and parts of laws, whether here referred to by Article, Title, or number, or not, General or Special, in conflict herewith are hereby modified and limited to the extent that they are not to be controlling, but the specific provisions of this Act shall be controlling in the counties to which it is made applicable. The provisions of this Act are cumulative of the General Law on the subject, and where not otherwise modified hereby, such General Laws are made applicable.

Acts 1941, 47th Leg., p. 1410, ch. 643.

Art. 2700d-44. AUTOMOBILES FOR USE OF COUNTY SUPERINTENDENTS IN COUNTIES OF 500,000 OR MORE.

Section 1. In all counties in this State having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census, or any future Federal Census, the County School Trustees may provide for the purchase and maintenance of an automobile for the use of the County Superintendent. In lieu of providing for the purchase and maintenance of such automobile, the County School Trustees may, in their discretion, allow to the County Superintendent out of the County equalization fund such sum of money per month as will in their judgment cover the cost of an automobile and the expenses of maintaining it, including depreciation thereon, provided that such sum so fixed shall not exceed the sum of One Hundred Dollars ($100) per month. Such allowance, when fixed by the

County School Trustees, shall be paid monthly from the County equalization fund. Provided, however, that nothing herein contained shall be construed as authorizing any increase in any tax rate now in effect in any such counties.

Sec. 2. The County Superintendent shall make monthly reports showing the kind of automobile operated by him, the number of miles such car was operated during the month in the discharge of the duties of his office, the amounts expended by him in the maintenance thereof, and such other information as may be required of him by the County School Trustees. All such reports shall be audited, and shall be subject to the approval of the County Auditor of such counties, if there be a County Auditor.

Sec. 3. The allowance above provided for shall be continued in effect for such period of time as may be determined by the County School Trustees, and may be changed from time to time as in their judgment the facts and circumstances require. Such allowance shall be in addition to the expenses now authorized by law for County Superintendents.

Sec. 4. The provisions of Article 2700, Vernon's Annotated Civil Statutes, as amended by Acts 1941, Forty-seventh Legislature, Page 407, and Acts 1943, Forty-eighth Legislature, Page 697, shall apply to all counties of the class above enumerated. The provisions of such laws shall be cumulative of all other laws governing such counties.

Acts 1945, 49th Leg., p. 169, ch. 126.

Art. 2700e. SALARIES OF ASSISTANTS IN COUNTIES OF 13,700 TO 13,800; 29,000 TO 30,000 AND 46,000 TO 47,000. In counties having a population of more than 13,700 and less than 13,800 inhabitants, or a population of more than 29,000 and less than 30,000 inhabitants, according to the last preceding Federal Census, and in counties having a population of more than 46,000 and less than 47,000 inhabitants, according to the last preceding Federal Census, the first assistant to the county superintendent of public instruction is entitled to receive an annual salary of not more than $5,500; however, the aggregate salaries of all assistants to the county superintendent may not exceed $8,800 a year.

Acts 1965, 59th Leg., p. 1016, ch. 500, Sec. 1, eff. Aug. 30, 1965.

Art. 2701a. RURAL SUPERVISOR, DUTIES, SALARY, ETC.

Section 1. That the County Board of School Trustees in counties having a population of not less than 31,000 nor more than 31,789, according to the Federal Census of 1920, and a scholastic population of not less than 9,300 as shown by the scholastic report for the school year of 1928-29, may employ a Rural School Supervisor to plan, outline, and supervise the work of the primary and intermediate grades of the rural schools of the county.

Sec. 2. The Rural Supervisor provided for in this Act shall be the holder of a teacher's permanent certificate (not permanent primary) and shall have had four years successful experience as a teacher in the primary and intermediate grades and in addition shall have had practice teaching in said grades.

Sec. 3. It shall be the duty of such Supervisor to visit the schools of the county and help the teachers with their class work by teaching demonstration lessons for them; suggesting methods of presenting the work and aiding them in any other ways possible.

Sec. 4. The Supervisor may call meetings of the teachers when deemed necessary, either by the Supervisor or the County Board, for the purpose of discussing their work with them, and it shall be the duty of the teachers to attend all such meetings, whenever possible.

Sec. 5. The salary of the Rural School Supervisor shall be determined by the County Board of School Trustees; provided that the total salary paid such Supervisor for any one year shall not exceed $2,000. Said salary shall be paid out of the local or available funds of the districts in proportion to the weekly salary, or salaries, of the teachers of the districts.

Sec. 6. The employment of a Rural School Supervisor under the terms of this Act shall exempt the County Superintendent from holding a Teachers' Institute for rural teachers, including teachers of independent districts of fewer than five hundred scholastics, and exempt the rural teachers of the county from attendance upon a Teachers' Institute as provided for in Article 2691, Revised Statutes of 1925, and as amended by the 40th Legislature.

Acts 1929, 41st Leg., p. 469, ch. 219.

Art. 2701b. RURAL SUPERVISOR IN CERTAIN COUNTIES.

Section 1. That the County Board of School Trustees in counties having a population of 30,000 to 30,500 and a population of 34,300 to 34,500 according to the Federal census of 1920, may employ a rural school supervisor or supervisors to plan, outline, and supervise the work of the primary and intermediate grades of the rural schools of the county.

Sec. 2. It shall be the duty of such supervisor to visit the schools of the county and help the teachers with their class work by teaching demonstration lessons for them; suggesting methods of prescribing the work and aiding them in any other ways possible.

Sec. 3. The supervisor may call meetings of the teachers when deemed necessary, for the purpose of discussing their work with them, and it shall be the duty of the teachers to attend all such meetings called by the supervisor, whenever possible.

Sec. 4. The salary of the rural school supervisor shall be determined by the County Board of School Trustees; provided that the total salary paid such supervisor for any one year shall not exceed $1,800.00. Said salary shall be paid out of the local or available funds of the districts in proportion to the weekly salary, or salaries, of the teachers of the district or may be apportioned out of the State and County apportionment.

Sec. 5. The employment of a rural school supervisor under the terms of this Act shall exempt the County Superintendent from holding a teachers' institute for rural teachers, and teachers of Independent districts of less than 10,000 population and exempt such teachers from attendance upon a teachers' institute as provided for in Article 2691, Revised Civil Statutes of 1925, and as amended by the 40th Legislature.

Acts 1929, 41st Leg., p. 526, ch. 251.

Art. 2701c. RURAL SCHOOL SUPERVISOR IN LIEU OF TEACHERS' INSTITUTE.

Section 1. That the County Board of School Trustees in counties having a population of 37,000 to 37,800, according to the Federal census of 1920, and a scholastic population of at least 10,000 as shown by the scholastic report for the school year 1927-28, may

employ a Rural School Supervisor to plan, outline, and supervise the work of the primary and intermediate grades of the rural schools of the county.

Sec. 2. It shall be the duty of such Supervisor to visit the schools of the county and help the teachers with their class work by teaching demonstration lessons for them, suggesting methods of presenting the work and aiding them in any other ways possible.

Sec. 3. The Supervisor may call meetings of the teachers when deemed necessary, for the purpose of discussing their work with them, and it shall be the duty of the teachers to attend all such meetings called by the Supervisor, whenever possible.

Sec. 4. The salary of the Rural School Supervisor shall be determined by the County Board of School Trustees; provided that the total salary paid such Supervisor for any one year shall not exceed $1,800.00. Said salary shall be paid out of the available funds of the districts in proportion to the weekly salary, or salaries, of the teachers of the district.

Sec. 5. The employment of a Rural School Supervisor under the terms of this Act shall exempt the County Superintendent from holding a Teachers' Institute for rural teachers and exempt the rural teachers of the county from attendance upon a Teachers' Institute as provided for in Article 2691, Revised Statutes of 1925, and as amended by the 40th Legislature.

Acts 1929, 41st Leg., 1st C.S., p. 188, ch. 74.

Art. 2701d. RURAL SUPERVISOR AND SALARY IN COUNTIES HAVING POPULATION OF 1,100 TO 41,500.

Section 1. That the County Board of School Trustees in counties having a population of 1,100 to 41,500 according to the last Federal census, and a scholastic population of at least 9200 as shown by the scholastic report for the preceding school year may employ a rural school supervisor or supervisors to plan, outline and supervise the work of the primary and intermediate grades of the rural schools of the county. Such supervisor to have college degree or other appropriate evidence of proficiency in rural supervision.

Sec. 2. It shall be the duty of such supervisor to visit the schools of the county and to help the teachers with their class work

by teaching demonstration lessons for them; suggesting methods of presenting the work and aiding them in any other ways possible.

Sec. 3. The supervisor may call meetings of the teachers when deemed necessary, for the purpose of discussing their work with them, and it shall be the duty of the teachers to attend all such meetings called by the supervisor, whenever possible.

Sec. 4. The salary of the rural school supervisor shall be determined by the County Board of School Trustees; provided that the total salary paid such supervisor for any one year shall not exceed $2,000.00. Said salary shall be paid out of the local or available funds of the districts in proportion to the weekly salary, or salaries, of the teachers of the district or may be apportioned out of the State and County apportionment.

Sec. 5. The employment of a rural school supervisor under the terms of this Act shall exempt the County Superintendent from holding a teacher's institute for rural teachers, and teachers of Independent districts of less than 10,000 population and exempt such teachers from attendance upon a teachers' institute as provided for in Article 2691, Revised Civil Statutes of 1925, and as amended by the 40th Legislature.

Acts 1929, 41st Leg., 3rd C.S., p. 242, ch. 9.

Art. 2701d-1. RURAL SUPERVISOR AND SALARY IN COUNTIES HAVING POPULATION OF 30,000 TO 30,500.

Section 1. That the County Board of School Trustees in counties having a population of 30,000 to 30,500 according to the Federal census of 1920 may employ a rural school supervisor or supervisors to plan, outline, and supervise the work of the primary and intermediate grades of the rural schools of the county.

Sec. 2. It shall be the duty of such supervisor to visit the schools of the county and help the teachers with their class work by teaching demonstration lessons for them; suggesting methods of prescribing the work and aiding them in other ways possible.

Sec. 3. The supervisor may call meetings of the teachers when deemed necessary, for the purpose of discussing their work with them, and it shall be the duty of the teachers to attend all such meetings called by the supervisor, whenever possible.

Sec. 4. The salary of the rural school supervisor shall be determined by the County Board of School Trustees; provided that the total salary paid such supervisor for any one year shall not exceed $1,800. Said salary shall be paid out of the local or available funds of the districts in proportion to the weekly salary or salaries of the teachers of the districts, or may be apportioned out of the State and county apportionment. Provided, also, that any expense necessary in carrying on the work of said supervisors shall be paid by the County Board of School Trustees in the same manner and from the same funds as the salary of said supervisors.

Sec. 5. The employment of a rural school supervisor under the terms of this Act shall exempt the County Superintendent from holding a teachers' institute for rural teachers, and teachers of independent districts of less than 10,000 population and exempt such teachers from attendance upon a teachers' institute as provided for in Article 2691, Revised Civil Statutes of 1925 and as amended by the 40th Legislature.

Acts 1930, 41st Leg., 5th C.S., p. 166, ch. 32.

Art. 2701d-2. SUPERVISOR AND SALARY IN COUNTIES HAVING POPULATION OF 28,000 TO 28,327.

Section 1. That the County Board of School Trustees in counties having a population of 28,000 to 28,327 according to the last Federal census, and a scholastic population of at least 8,349, as shown by the scholastic report for the preceding school year may employ a rural school supervisor to plan, outline and supervise the work of the primary and intermediate grades of the rural schools of the county. Such supervisor to have college degree.

Sec. 2. It shall be the duty of such supervisor to visit the schools of the county and help the teachers with their class work by teaching demonstration lessons for them; suggesting methods of presenting the work and aiding them in any other ways possible.

Sec. 3. The supervisor may call meetings of the teachers when deemed necessary, for the purpose of discussing their work with them, and it shall be the duty of the teachers to attend all such meetings called by the supervisor, whenever possible.

Sec. 4. The salary of the rural school supervisor shall be

determined by the County Board of School Trustees; provided that the total salary paid such supervisor for any one year shall not exceed $2,000. Said salary shall be paid out of the local or available funds of the districts in proportion to the weekly salary or salaries, of the teachers of the district or may be apportioned out of the State and County apportionment.

Sec. 5. The employment of a rural school supervisor under the terms of this Act shall exempt the County Superintendent from holding a teachers' institute for rural teachers and teachers of Independent districts of less than 10,000 population and exempt such teachers from attendance upon a teachers' institute as provided for in Article 2691, Revised Civil Statutes of 1925, and as amended by the 40th Legislature.

Acts 1930, 41st Leg., 5th C.S., p. 195, ch. 53.

Art. 2701d-2a. RURAL SCHOOL SUPERVISORS.

Section 1. The County Board of School Trustees in counties having a population of twenty-nine thousand, three hundred (29,300) to twenty-nine thousand, five hundred (29,500) and forty-six thousand, one hundred (46,100) to forty-six thousand two hundred (46,200), according to the last available Federal Census, may employ a rural school supervisor to plan, outline, and supervise the work of the primary and intermediate grades of the rural schools of the county, and shall meet with and advise with the County Board at all regular meetings.

Sec. 2. It shall be the duty of such supervisor to visit the schools of the county and help the teachers with their classwork by teaching demonstration lessons for them, suggesting methods of presenting the work, and aiding them in any other ways possible.

Sec. 3. The supervisor may call the meetings of the teachers when deemed necessary, for the purpose of discussing their work with them, and it shall be the duty of the teachers to attend all such meetings called by the supervisor whenever possible.

Sec. 4. The salary of the rural school supervisor shall be determined by the County Board of School Trustees; provided that the total salary paid such supervisor for any one year shall not exceed One Thousand, Five Hundred Dollars ($1,500). Said salary shall be paid out of the available funds of the districts in proportion to the

weekly salary or salaries of the teachers of the district.

Sec. 5. The employment of a rural school supervisor under the terms of this Act shall exempt the County Superintendent from holding a teachers' institute for rural teachers; and in all counties having a population of twenty-nine thousand, three hundred (29,300) to twenty-nine thousand, five hundred (29,500), according to the last available Federal Census, shall exempt the County Superintendent from holding a teachers' institute for teachers of independent districts with a scholastic population of less than five hundred (500); and shall exempt the teachers of such schools of the county from attendance upon a teachers' institute, as provided for in Article 2691, Revised Civil Statutes of Texas of 1925, and as amended by the Fortieth Legislature.

Acts 1927, 40th Leg., 1st C.S., p. 249, ch. 91; Acts 1929, 41st Leg., 1st C.S., p. 194, ch. 77; Acts 1930, 41st Leg., 4th C.S., p. 74, ch. 36; Acts 1931, 42nd Leg., Spec.L., p. 343, ch. 164; Acts 1933, 43rd Leg., p. 73, ch. 42; Acts 1939, 46th Leg., Spec.L., p. 710, Sec. 1.

Art. 2701d-4. SUPERVISOR, SALARY AND DUTIES IN COUNTIES HAVING POPULATION OF 49,100 TO 51,500.

Section 1. That the County Board of County Trustees in co-operation with the County Superintendent in counties having a population of forty-nine thousand, one hundred (49,100) to fifty-one thousand, five hundred (51,500) according to the last Federal Census and scholastic population of twelve thousand, seven hundred and seventy-seven (12,777) as shown by the scholastic reports for the preceding school year, may employ one or two rural school supervisors to plan, outline and supervise the work of the primary and intermediate grades of the rural schools of the county. Such supervisors to have appropriate evidence of proficiency in rural supervision.

Sec. 2. It shall be the duty of such supervisor or supervisors to visit the schools of the county and help the teachers with their class work, by teaching demonstration lessons for them, suggesting methods of presenting the work and aiding them in any way possible.

Sec. 3. The supervisors in cooperation with the County

Superintendent, may call meetings of the teachers when deemed necessary for the purpose of discussing their work with them, and it shall be the duty of such teachers to attend all such meetings, whenever possible.

Sec. 4. The salary of such rural school supervisor shall be determined by the County Board of County Trustees and the County Superintendent, provided that the total salary paid each such supervisor shall not exceed two thousand, four hundred dollars ($2,400.00) for any one year, including traveling expenses. The said salary shall be paid out of the State available funds apportioned to the said county each scholastic year.

Sec. 5. The employment of a rural supervisor under the terms of this Act shall exempt the County Superintendent from holding teachers' institutes for rural teachers and teachers of independent districts of the county and shall exempt the teachers from attendance upon a teachers' institute as provided in Article 2691, Revised Civil Statutes of Texas, of 1925, and as amended by the 40th Legislature.

Acts 1933, 43rd Leg., p. 557, ch. 181.

Art. 2701d-5. RURAL SCHOOL SUPERVISORS IN VAN ZANDT AND OTHER COUNTIES.

Section 1. COUNTIES TO WHICH APPLICABLE. The County Boards of School Trustees may employ rural supervisors of Van Zandt, Panola, Nacogdoches, Jasper, Cass, Live Oak, Anderson, Scurry, Wood, Denton, Shelby, Morris, Parker, Nolan, Titus, Wise and Lamar Counties, to plan, outline, and supervise the work of the primary and intermediate grades of the rural schools of the counties.

Sec. 2. VISITING SCHOOLS. It shall be the duty of such supervisors to visit the schools of the counties and help the teachers with their class work by teaching demonstration lessons for them: suggesting methods of presenting the work and aiding them in any other ways possible.

Sec. 3. TEACHERS' MEETINGS. The supervisors may call meetings of the teachers when deemed necessary, either by the supervisors or the County Boards, for the purpose of discussing their work with them, and it shall be the duties of the teachers to attend all such meetings whenever possible.

Sec. 4. SALARY. The salary of the rural school supervisor shall be determined by the County Board of School Trustees, providing that the total salaries paid such school supervisor for any one year shall not exceed Two Thousand ($2,000.00) Dollars; said salary shall be included in the annual budget for County Administration Expense, and an assessment shall be levied upon the scholastic population of Van Zandt County for the purpose of paying the salary of the supervisor, provided the County Board of School Trustees of the various counties named in House Bill No. 72, Chapter 39, of the General and Special Laws of the Forty-second Legislature, First Called Session, 1931, shall have the power to discontinue the office of rural school supervisors at any time when it is clearly shown that such rural school supervisors are not a public necessity, and their services are not commensurate with the salaries received.

Sec. 5. EXEMPTIONS; PARTIAL INVALIDITY. The employment of rural school supervisors, under the terms of this Act shall exempt the County Superintendent from holding a Teachers' Institute for rural teachers, including teachers of independent districts of fewer than five hundred (500) scholastics, and exempt the rural teachers of the County from attendance upon a Teachers' Institute as provided for in Article 2691, Revised Statutes of 1925, and as amended by the 40th Legislature.

It is hereby declared that if any clause, phrase, provision or section of this bill should be invalid or unconstitutional, that the Legislature would have nevertheless passed the remaining portions of said bill without including the phrase, clause, provision or section so declared invalid or unconstitutional.

Acts 1931, 42nd Leg., 1st C.S., p. 83, ch. 39; Acts 1939, 46th Leg., Spec.L., p. 713, Sec. 1; Acts 1939, 46th Leg., Spec.L., p. 714, Sec. 1; Acts 1939, 46th Leg., Spec.L., p. 715, Sec. 1.

Art. 2701e-1. RURAL SCHOOL MUSIC SUPERVISOR IN COUNTIES OF 16,670 TO 17,060 AND 9,300 TO 9,405 POPULATION.

Section 1. The County Board of School Trustees in counties having a population of not less than sixteen thousand, six hundred and seventy (16,670) nor more than seventeen thousand and sixty (17,060) and all counties having a population of not more than nine

thousand, four hundred and five (9,405) and not less than nine thousand, three hundred (9,300), according to the last preceding Federal Census, may employ, upon the recommendation of the County Superintendent, a rural school music supervisor to plan, outline, supervise, and teach music in the rural schools which are under the supervision and administration of the County Superintendent of Public Instruction, said supervisor at all times to work in cooperation with and under the supervision of the County Superintendent of Public Instruction. Such supervisor must have evidence of proficiency in public school music and be able to direct same. Other qualifications to be set up by County Superintendent.

Sec. 2. It shall be the duty of such supervisor to visit the schools of the county and help the teachers with their classwork, in music by teaching demonstration lessons for them, suggesting methods of presenting the work and aiding in every possible way to improve classroom instruction in music. The supervisor, in cooperation with the County Superintendent, may call meetings of the teachers of the county when deemed necessary for the purpose of discussing with them their problems, and it shall be the duty of said teachers to attend such meetings whenever called. Said supervisor, when not visiting schools, shall render assistance in the office of the County Superintendent of whatever nature may be necessary if demanded by the County Superintendent.

Sec. 3. The removal of such supervisor and the termination of his or her services shall at all times be under the control of the Board of County School Trustees acting on the recommendation of the County Superintendent of said county.

Sec. 4. The salary of such rural school music supervisor shall be determined by the Board of County School Trustees and the County Superintendent; provided the total salary of said supervisor shall not exceed One Thousand, Five Hundred Dollars ($1,500) per annum, the salary of said supervisor to be allowed each year out of the County Available Fund.

Acts 1939, 46th Leg., Spec.L., p. 718.

CHAPTER 12. COUNTY UNIT SYSTEM

Art. 2702. ELECTION. Upon the petition, duly signed and verified by the tax rolls of the county, of five hundred (500)

qualified voters of any county having a population of one hundred thousand (100,000) or over, or upon the petition duly signed and verified by the tax rolls of the county of one hundred (100) qualified voters of any county having a population of not less than three thousand nine hundred sixty (3,960) and not more than four thousand (4,000), and a county having a population of not less than eight thousand six hundred (8,600) and not more than nine thousand (9,000), according to the preceding Federal Census, the County Judge shall call an election in said county within ninety (90) days thereafter to determine whether or not such county shall adopt what is commonly known as the County Unit System of Education, provided for under this law; such election to be governed by the laws governing the holding of a primary election in and for a county, in which said election is called. Separate elections shall be held in each Commissioner's Precinct in the County, and it shall require a majority vote in each such Commissioner's Precinct before the consolidation may be ordered by the Commissioners' Court. And the Commissioners' Court is hereby constituted the canvassing board for each of such precincts and the elections therein. Said election shall be held on the same day and in the same manner as provided for the holding of primary elections in this State. The County Judge shall prepare a proper form of ballot to be used in such election, and furnish such explanations of the law as in his judgment may be necessary, and transmit the same to the presiding officer of each election precinct. The results of said election shall be certified by the County Judge to the Secretary of State, and shall take effect as soon as the County Board of Education hereinafter provided for has been duly elected and qualified; and this law shall take the place of any existing General or Special Law affecting said county which may be in conflict with the provisions hereof.

Acts 1923, p. 237; Acts 1931, 42nd Leg., p. 835, ch. 348, Sec. 1; Acts 1941, 47th Leg., p. 176, ch. 128, Sec. 1.

Art. 2702-A. COUNTY-WIDE EQUALIZATION DISTRICTS IN COUNTIES OF 24,000 TO 25,000 HAVING VALUATION OF $27,500,000.

Section 1. TAXING POWER. All counties in this state having a population of not more than twenty-five thousand (25,000), nor less

than twenty-four thousand (24,000), according to the last preceding Federal Census, and containing a valuation of Twenty-seven Million Five Hundred Thousand ($27,500,000.00) Dollars or more, are hereby created into county-wide equalization school districts, and each such county shall have the county unit system of education to the extent specified in this Act and may exercise the taxing power conferred on school districts by Article 7, Section 3 of the Constitution to the extent hereinafter provided; but such taxing power shall not be exercised until and unless authorized by a majority of the qualified property tax-paying voters residing therein at an election to be held for that purpose as hereinafter provided.

Sec. 2. MANAGEMENT; RATE OF EQUALIZATION TAX. The general management, supervision, and control of the public schools and of the educational interests of such counties shall be vested in the County Board of School Trustees, except as otherwise provided by law, and said Board shall perform such duties as are or may be required of it by existing law and by the provisions of this Act and shall constitute the Board of Trustees for such county-wide equalization district. Any such county-wide school equalization district may levy and collect annually on all taxable property in the county an equalization tax not to exceed Twenty-five (25) Cents on the One Hundred ($100.00) Dollars valuation of property situated in said county, and the money derived from said tax shall be known as an equalization fund for the support of the public schools of the county, which funds shall be distributed to the school districts of the county as provided herein.

Sec. 3. ELECTION. On the petition of as many as one hundred (100) legally qualified taxpaying voters of any county, subject to the provisions of this Act, praying for the authority to levy and collect said tax, the County Judge shall immediately order an election to be held throughout the county, said election to be held not more than thirty (30) days, nor less than twenty (20), from the date of such order. The County Judge shall give notice of such election by causing to be published a copy of the order of the election in some newspaper, published in the county once each week for three (3) consecutive weeks prior to the date of such election, the date of the first publication to be not less than twenty (20) days prior to the date fixed by the election. Only legally qualified property taxpaying voters who own property in the county and who have duly rendered the same for taxation shall be allowed to vote in said

election. The form of ballot shall be substantially as follows:
"For the county-wide equalization tax."
"Against the county-wide equalization tax."

The manner of holding said election shall be governed by the General Laws of the State of Texas regulating elections and shall be held at the regular polling places within the county with duly appointed election officers holding said election. The officers holding the election shall make returns thereof to the County Judge within ten (10) days after the same was held.

The Commissioners Court shall at its next regular meeting canvass the returns of said election, and if a majority of the votes cast shall favor such tax, the Court shall declare the result and certify the same to the County Board of School Trustees and to the County Tax Assessor and Collector, and said Board of County School Trustees shall thereupon be authorized to levy said tax and the County Tax Assessor and Collector shall be authorized to assess and collect same. No election to revoke said tax shall be ordered until the expiration of five years (5) from the date of the election at which said tax was adopted.

Sec. 4. ASSESSMENT AND COLLECTION; REPORTS. In counties voting such equalization tax the County Tax Assessor shall assess all the taxable property in the county at the same rate of valuation as it is assessed for state and county purposes, and the County Tax Collector shall collect said tax at the same time and in the same manner as state and county taxes are collected. The Tax Collector shall have the same authority and the same laws shall apply in the collection of said tax as in the collection of county ad valorem taxes. He shall, on or before the 10th of each month, make a report to the County Board of School Trustees and to the County Superintendent of Schools showing all moneys collected by him during the last month by said tax. The officers assessing and collecting said equalization tax shall receive therefor the same compensation as is paid for assessing and collecting school taxes in common school districts.

Sec. 5. TREASURER; DEPOSITS. The County Superintendent shall be the Treasurer of the county-wide equalization district and shall keep an accurate record of all moneys received and paid out by such county-wide equalization district. The county depository shall be the depository for the county-wide equalization district and such depository shall enter into a bond of a like condition and amount as is prescribed by law for depositories of county funds. The Tax

Collector shall on or before the 10th of each month deposit all moneys collected by him during the preceding month by said school equalization tax in the depository to the credit of the county-wide school equalization fund.

Sec. 6. DISTRIBUTION OF MONEY COLLECTED. The County Board of School Trustees shall distribute the money collected from any taxes levied by said ditrict to the common and independent school districts of the county on the same basis that the state per capita apportionment is distributed among said common and independent school districts. The County Board of School Trustees shall issue warrants to be signed by the President of said Board, attested by the Secretary thereof, against such equalization fund to the School District Trustees on a per capita basis as is provided herein; provided, however, that the County Board shall from time to time, as the money is collected, issue warrants to the various school districts in proportion to the amount that each is entitled to receive on such per capita basis as provided herein.

Sec. 7. POWERS AND DUTIES OF TRUSTEES. This Act shall not have the effect of changing any duties imposed on or powers conferred on the Trustees of any common or independent school district situated in the counties covered by this Act unless and except as expressly provided herein; it being the intention of this law that respective Boards of Trustees shall continue to administer their lawful duties and powers as now authorized by law, but the equalization tax authorized shall be levied by the County Board of School Trustees, and assessed and collected by the County Tax Assessor and Collector, and distributed to the respective districts by the County Board of School Trustees.

Sec. 8. PARTIAL INVALIDITY; REPEAL. In the event any clause, sentence, paragraph, section, or part of this Act shall be held unconstitutional or void, then and in that event it is hereby declared to be the legislative intent that all other clauses, sentences, paragraphs, sections, and parts of this Act shall have full effect according to their purport and intent. All laws or parts of laws, both General and Special, in conflict with this Act, are hereby repealed insofar and only insofar as they conflict with the provisions of this Act in its local application.

Acts 1947, 50th Leg., p. 617, ch. 331.

Art. 2740a. SUPERVISION OF SCHOOLS IN COUNTIES OF MORE THAN 1100 SQUARE MILES.

Section 1. COUNTY BOARD OF EDUCATION. The general management, supervision, and control of the public free schools of counties with an area of more than eleven hundred (1,100) square miles and a population of not less than forty-two thousand (42,000) nor more than fifty-two thousand (52,000) according to the last preceding Federal Census, shall be vested in a County Board of Education. The County Board of Education shall be composed of five members to be elected at the regular school trustee election on the first Saturday in April of each year, one of whom shall be elected from each of the Commissioners' precincts and one from the county at large, by the qualified voters of the common school districts and of the independent school districts having five hundred (500) scholastics or less. The member at large shall serve as president of the Board. At the meeting following the first election the lengths of the terms of office shall be determined by lot and one elected each year thereafter for a term of five years. Any vacancy occurring on said Board shall be filled by an election ordered by the County Judge. Said election shall be governed by the general laws of this State for elections.

Sec. 2. MEETINGS. Meetings: The County Board of Education of such counties shall hold such meetings as are now provided by law and the rules generally adopted by deliberative bodies for their government shall be observed.

Sec. 3. PAYMENT. Payment: The members of the County Board of Education shall receive $5.00 per day for the time spent in attending meetings, to be paid in the same manner and from the same funds as is now provided by law; provided that they not be allowed pay for more than 20 days in any one year.

Sec. 4. POWERS AND DUTIES. Powers and Duties: The County Board of Education shall appoint, subject to the provisions of this Act, as its executive officer, a County Superintendent of Education, who shall also be the secretary of the County Board of Education, and whose duties shall be the same as are now specified by law and as otherwise defined in this Act. The County Board of Education shall designate the salary of the County Superintendent, subject to the provisions of this Act. The County Board of Education shall appoint such assistants, supervisors, and clerical help for the County Superintendent as may be deemed necessary by this body, subject to

the provisions of this Act.

Sec. 5. PROFESSIONAL SUPERVISION; MEETINGS OF TEACHERS. The County Board of Education may, upon the recommendation of the County Superintendent, provide for the employment of such professional supervision as may be deemed necessary, this to be in lieu of the teachers' institute as now provided by law. The County Superintendent shall be exempt after the passage of this Act from such requirements as are now provided by law for the holding of teachers' institute; and shall be empowered to provide for such meetings of the teachers of the county as may be deemed necessary and to require the attendance of all teachers upon such meetings.

Sec. 6. ANNUAL PER CAPITA APPORTIONMENT; NOMINATION OF PRINCIPALS AND TEACHERS. In making the annual per capita apportioment to the schools, the County Board of Education shall also make an annual allowance out of the State and county available funds for the salary and expenses of the County Superintendent and such assistants, supervisors, and clerical help as he may have, and such expenses shall be prorated to the schools subject to the supervision of said Board; provided that in making this allowance for county administration, the per capita assessment against the scholastics of the districts subject to the supervision of the County Board of Education shall not exceed $1.50, provided further that the salary of the County Superintendent for the month of September shall not be paid until he presents a receipt from the State Superintendent of Public Instruction showing that he has made all reports required of him.

The County Superintendent shall nominate the principals and teachers for the various schools of the county, but this nomination shall be subject to confirmation by the District Trustees. The District Trustee shall have the power to refuse to confirm the nomination of the County Superintendent, and when such confirmation is refused, the County Superintendent shall nominate another teacher for such school, provided however, that not more than three such teachers shall be nominated for any one place under the provisions of this Section. In the event the District Trustees should refuse to confirm the nomination of the County Superintendent as provided herein, the selection of the principal or teachers shall be by joint action of the District Trustees and the County Superintendent, in which case a majority vote shall prevail.

Sec. 7. PURCHASES AND CONTRACTS. The District Trustee shall

make all purchases of equipment and supplies for the various school districts and shall contract for all buildings and improvements and repairs and all other expenditures, but where the consideration involved is more than $50.00 such contracts and purchases shall be approved by the County Superintendent.

Sec. 8. EQUALIZATION FUND. The County Board of Education shall at its August meeting set aside such county available school funds as may have accrued from investments of the permanent school funds and land leases and shall supplement this with an amount not exceeding 5% of the State available school funds apportioned to the county, to be used as an equalization fund to be distributed by the County Board, under such rules and regulations as may be adopted by the County Board, provided that no district shall participate in this distribution that does not levy a local tax for school purposes of at least 75 cents on each one hundred dollars property valuation of such district.

Acts 1927, 40th Leg., 1st C.S., p. 246, ch. 89; Acts 1939, 46th Leg., Spec.L., p. 693, Sec. 1.

Art. 2740b. COUNTY BOARD OF EDUCATION AND SUPERINTENDENT IN CERTAIN COUNTIES, POWERS AND DUTIES.

Section 1. COUNTY BOARD OF EDUCATION IN COUNTIES OF 15,000 TO 20,000. The general management, supervision, and control of the public free schools of counties with an area of nine hundred and seventy-seven square miles and a population of not less than 15,000 nor more than 20,000 according to the last preceding Federal census, shall be vested in the County Board of Education composed of seven members elected by the qualified voters of the county and at least one member shall reside in each Commissioners' precinct, and shall be elected for a term of three years. At the first election on the first Saturday in April, 1930, two shall be elected for one year, two for two years, and three for three years and at the first meeting they shall determine by lot who shall serve for one year, two years and three years. All vacancies on said Board shall be filled by the remaining members. The County Board of Education shall be persons of progressive educational attainments, good moral character, and executive ability. They shall have the powers and duties as now

provided by the General Laws of the State governing County Boards in addition to those provided by this Act. All candidates for County Boards of Education shall file an application with the County Judge requesting their names to be placed on said ballots for the election of County Boards of Education at least 15 days prior to said election. If no one makes application for name on the ballot, then ten (10) qualified voters of the county may petition the County Judge to place certain names on the ballots provided this is done at least ten (10) days prior to said election. The County Judge shall be required to furnish all election supplies as now provided under the General Law.

The first members of the County Board of Education after this Act shall become effective shall be as follows: B.G. Graham, J.F. Parnell, M.K. Withers, R.F. Smith, and J.W. Langley who compose the present Board. The County Board of Education as named in this Act, before organizing and entering upon their official duties as such, shall appoint two additional members who shall subscribe to the official oath provided by the General Statutes of the State of Texas. They shall continue in office until the first election provided for in this Act or until their successors are elected or appointed and qualified.

The members of the County Board of Education of the public schools of any county affected by this Act shall receive $5.00 per day for their services not to exceed twelve days per year in complying with the duties imposed upon them by this Act, to be allowed by the Commissioners' Court and paid out of the General Fund of the county, and the expense of making maps and plats provided for by this Act and all other expenses incident to carrying out its provisions shall be similarly allowed and paid.

Sec. 2. REARRANGEMENT AND RESUBDIVISION OF TERRITORY; ALTERATION. It shall be the duty of the County Board of Education of the public schools in every county in this State affected by this Act as soon as may be after this Act shall take effect, to rearrange and resubdivide all the territory of their respective counties into such number of convenient school districts as it shall deem advisable and designate them by number.

Such rearrangement and resubdivision shall be accomplished by constituting such existing Independent School Districts as the Board shall deem advisable, together with such territory adjacent to such Independent School Districts as it may deem advisable to add thereto,

the new districts into which such county shall be subdivided; and such existing Independent School Districts, so enlarged shall continue to have and exercise all the powers and duties now provided by Law and shall continue to be governed by existing law and by this Act.

The words, "School District," as herein used, shall refer to Common School Districts or to Independent School Districts, however created.

The County Board of Education shall have the power, from time to time, to alter or amend the rearrangement and the resubdivision of school districts herein provided for, and in amending or altering same may increase or reduce the area of any school district; create additional school districts; consolidate two or more adjacent districts; revise or rearrange the boundaries of any school district; attach territory thereto or detach territory therefrom, if necessary for the best interest of the school children, provided that the territory of no Independent School District shall be changed without the consent of its Board of Trustees, and provided further that said Board shall not subtract from the territory of any school district in such way as to leave any portion thereof remaining in such district with insufficient taxable wealth to raise revenue sufficient to pay interest and create a sinking fund for outstanding bonds; and provided that no portion of the territory of the county shall be left in a school district, after such subdivision shall have been made, with insufficient taxable wealth within such district with proper and convenient school facilities, both in the elementary and high school grades.

Sec. 3. PLAN AND MAP. Before undertaking to create, revise or rearrange the boundaries or to change the territory in any school district, the County Board of Education shall cause a plan and a map to be made showing the boundaries of all districts affected and of the new districts, if any to be created, with the area, taxable wealth and scholastic population of such districts so affected or to be created, and before such action is taken, all interested persons shall be given an opportunity to be heard.

Sec. 4. ADJUSTMENT OF INDEBTEDNESS AND PROPERTIES ON DIVISION OR CONSOLIDATION. When the boundaries of any school district having an outstanding bonded indebtedness have been changed or its territory divided or two or more such districts consolidated, it shall be the duty of the County Board of Education to make such an adjustment of

such indebtedness and district properties between the districts affected and between the territory divided, detached or added, as may be just and equitable, taking into consideration the value of the school properties and the taxable wealth of the districts affected and the territory so divided, detached or added, as the case may be. And when said Board has arrived at a satisfactory basis of such an adjustment, it shall have the power to make such orders in relation thereto as shall be conclusive and binding upon the districts and the territory thereby affected.

Sec. 5. REFUNDING BONDS; ELECTION; TAX TO PAY BONDS. To carry into effect orders adjusting bonded indebtedness when changes are made in school districts, the County Board of Education shall have the power to order the trustees of the districts affected, to order an election for the issuing of such refunding bonds as may be necessary to carry out the purpose of such order; and, in such case it shall be the duty of the district trustees to order such election, cause the same to be held, and if the proposition is carried, to issue the bonds voted. Such bonds shall be of the same denomination and carry the same interest rate and mature at the same time as the outstanding bonds owing by the district issuing them, and when so issued, shall, if possible be exchanged for the outstanding bonds for which the district issuing them shall still be liable, according to the order adjusting such indebtedness; and in cases where such an exchange can not be made, the new bonds of the district, to the amount of the old bonds for which it is still liable, and for which no exchange can be made, shall be deposited in the County Treasury to the account of such district. Thereafter taxes shall be levied and assessed only for the payment of the interest, sinking fund and principal of the new bonds so issued; and the funds arising from such taxation shall be used to discharge the principal and interest of such new bonds as have been issued and exchanged, and such old bonds as have not been exchanged and the proceeds applied to payment on old bonds not exchanged, the corresponding new bonds in the County Treasury shall be credited with such payment and retired as the old unexchanged bonds are retired.

Sec. 6. PROCEDURE WHERE REFUNDING BONDS ARE VOTED DOWN. In cases where changes are made in districts having outstanding bonded indebtedness and where the necessary refunding bonds are voted down or where the County Board of Education is otherwise unable to arrange an adjustment or settlement of such bonded indebtedness, it shall be

the duty of the trustee to certify the fact and the territories affected by such changes, to the Commissioners' Court and thereupon it shall become the duty of the Commissioners' Court to thereafter annually levy and cause to be assessed and collected from the taxpayers of such districts as existed before the changes were made, and tax necessary to pay the interest, the sinking fund and discharge the principal of such indebtedness as it matures. And it shall be the duty of each Independent School District so affected, to cause all funds in its hands, whether sinking funds or otherwise, which have been collected on account of such bonded indebtedness, to be transferred to the County Treasurer of the county in which such district is situated and such district shall thereafter cease to levy and collect any tax on account of such bonds; and it shall be the duty of the County Treasurer to keep the funds so transferred and those arising from taxation, in separate accounts and apply the same only to the discharge of such bonded indebtedness and the interest thereon, as the same matures.

Sec. 7. OTHER METHODS OF SETTLING OUTSTANDING BONDED INDEBTEDNESS. Nothing in the provisions of this Act shall prevent the County Board of Education from arranging any other method for the adjustment and settlement of outstanding bonded indebtedness of school districts in which changes are made, but they shall have full power and authority to make any legal and equitable adjustment and settlement in such cases that can be affected.

Sec. 8. CONDEMNATION PROCEEDINGS. Said County Board of Education shall have the power to condemn land for free school purposes and may institute, maintain and prosecute suits for that purpose following the procedure applicable to condemnation of lands by railways or any other method authorized by law.

Sec. 9. TRANSPORTATION. It shall be the duty of any school district into which the county shall be subdivided under this Act to provide adequate and convenient means of transportation to and from the schools of such school children in any district as it may be reasonably necessary to make such provision for, and to establish such routes for that purpose as the Board of Trustees of such district may deem advisable and to alter and change the same from time to time and the expense of such transportation shall be paid by the district in which such children may reside.

Sec. 10. APPEAL. In all cases where changes have been made in the territory of existing school districts, any party aggrieved shall

have the right to appeal to a District Court of the county in which such school district is located and the decision of such Court on such appeal shall be final; provided notice of such appeal is given to the County Board of Education within ten (10) days after the passage of any such order making such changes; and provided further that such appeal to the District Court shall be perfected within thirty (30) days from date of such order.

Sec. 11. COUNTY SUPERINTENDENT. The County Board of Education shall appoint during the month of May at a regular or called meeting by a majority vote subject to the provisions of this Act, as its executive officer a County Superintendent of Education for a term of not less than three (3) years and not more than five (5) years and whose term shall begin July 1st after the enactment of this Law and shall serve until his successor is appointed and qualified. The County Board of Education shall not appoint any person except the present incumbent before the expiration of said incumbents' term of office as now elected under the General Laws of this State. They shall not appoint to the office of County Superintendent any person who has not at least completed two years' work of a College or University and who has not had at least four years teaching experience, or who does not hold a High School or permanent certificate and shall be a person of educational attainments and vision, good moral character, and executive ability.

The County Superintendent appointed under the provisions of this Act shall receive a salary of not less than $2,000.00 nor more than $2,400.00 per annum. The compensation herein provided for shall be paid in equal monthly payments upon the order of the County Board of Education; provided that the salary for the month of September shall not be paid until the County Superintendent presents a receipt showing that he has made all reports to the State Department of Education required of him; provided that whenever the General Laws of this State shall provide an annual salary for said County Superintendent in an amount greater than the salary as herein provided, then and only in that event, the General Law as to said salary will and shall control, otherwise the salary as herein fixed shall be in full force and effect.

The County Board of Education shall make provisions for the employment of a competent assistant for the County Superintendent, who shall, in addition to his other duties, act as attendance officer; and said Board is hereby authorized to fix the salary of

such assistant and pay the same out of the same funds from which the salary of the County Superintendent is paid.

It shall be the duty of the County Board of Education during the month of June of each year to make an assessment of $160.00 per annum from each independent School District of said county and shall make an assessment of not less than eighty (80) cents nor more than one dollar and fifty cents ($1.50) per scholastic from each Common School District for the salary of the County Superintendent, assistant County Superintendent and for making the consolidated census roll of the Common School Districts. It shall be the further duty of the County Board of Education to apportion the county available fund on a per capita basis as shown by the last scholastic census to all Common and Independent Districts of the county.

Sec. 12. EXPENSES OF COUNTY SUPERINTENDENT. It shall be the duty of the Commissioners' Court as soon as this Act shall become effective, on a written order of the County Board of Education, to pay from the general fund of the county to the County Superintendent not less than $600.00 nor more than $800.00 per annum in equal monthly payments for stamps, stationery, express, printing and all other expenses incidental and necessary in the administration of his office. The County Board of Education shall have the authority to fix the amount to be paid for the expenses of the County Superintendent as provided for in this Act and shall notify the Commissioners' Court of the amount to be paid not later than August 1st of each year.

Sec. 13. JOINT MEETINGS. The County Board of Education shall call an annual joint meeting of the County Board of Education and the Common and Independent District School Trustees at the County Seat or some other convenient place during the month of May of each year, said meeting to be presided over by the chairman of the County Board of Education for the purpose of classifying the schools, and to discuss and make provisions for the location, conduct, maintenance and discipline of schools, and other matters of interest for a constructive school program. The County Superintendent, as secretary of the County Board of Education, shall be required to keep a complete record of all transactions of this meeting on the Minutes of said County Board of Education.

Sec. 14. PRINCIPALS AND TEACHERS. The County Board of Education shall appoint, upon the written recommendation of the County Superintendent all principals and teachers in the county except those

of independent districts, but this nomination shall be subject to the confirmation by the district trustees. The district trustees shall have the power to refuse to confirm the nomination of the County Superintendent, and when such confirmation is refused the County Superintendent shall nominate another teacher for such school, provided, however, that not more than two such teachers shall be nominated for any one place under provisions of this Section. If the two nominations are not accepted, then the nominations shall be made by joint action of the district trustees of the County Board of Education, in which case a majority vote shall prevail. All applications for principals and teachers must be filed with the County Superintendent as provided for in this Section.

Sec. 15. EQUIPMENT AND SUPPLIES. The County Superintendent shall make all purchases of equipment and supplies for the various Common School Districts where the consideration involves more than $25.00.

Acts 1929, 41st Leg., p. 641, ch. 289.

Art. 2740c. EXEMPTION OF INDEPENDENT DISTRICTS FROM COUNTY SUPERVISION. That from and after the passage of this Act all Independent School Districts in this State located in counties having a population of not less than 8,955 and not more than 8,960, according to the United States Census of 1910, shall be exempt from county supervision and from all assessments for county administration and be subject only to the supervising authority of the State Department of Education and the State Board of Education as prescribed by General Law in the administration of public schools in this State.

Acts 1929, 41st Leg., p. 663, ch. 295, Sec. 1.

Art. 2740d. COUNTY BOARD OF EDUCATION IN CERTAIN COUNTIES.

Section 1. MEMBERSHIP; TERM. The general management, supervision and control of the public free schools of counties with a population of not less than eighty thousand (80,000) and not more than one hundred thirty thousand (130,000) according to the latest Federal Census, shall be vested in a County Board of Education. The

County Board of Education shall be composed of seven (7) members to be elected at the District School Trustee Election on the 1st Saturday in April, one of whom shall be elected by the qualified voters from each Commissioner's Precinct, and three (3) from the county at large, by the qualified voters of the county. All of said members shall serve for a term of three (3) years; provided that in those counties not now having seven (7) trustees, the present County Board shall appoint two (2) trustees at large to serve for a period of three (3) years. The two (2) members who were elected on the 1st Saturday in April, 1930, shall serve until April 30, 1933, or until their successors are elected and qualified. On the 1st Saturday in April, 1931, at the District School Trustee Election five (5) County School Trustees shall be elected, two (2) from the Commissioner's Precinct whose terms expire in 1931 to serve until April 30, 1932, or until their successors are elected and qualified, and three (3) from the county at large, to serve for a period of three (3) years. Annually hereafter on the 1st Saturday in April either two (2) trustees or three (3) trustees, shall be elected for a term of three (3) years.

Sec. 2. ORGANIZATION. The County Board of Education of such counties shall, at their first meeting in May of each year organize by electing one member of the Board as president, and one as vice-president to preside in the absence of the president; and they shall hold such other meetings as are not provided by law and the rules and methods of procedure generally adopted by deliberative bodies for their government shall be observed. Five members present at any meeting shall constitute a quorum to do business.

Sec. 3. QUALIFICATION. The County Board of Trustees shall be composed of persons of good moral character, high ideals of citizenship, and who are interested in public education. No person connected with the public schools of any district in such county either as an official or as an employee shall be eligible to serve on said County Board of Trustees.

Sec. 4. VACANCIES. All vacancies arising from death, resignation, or removal from the county shall be filled by the other members of the Board of Education, and such an appointee shall fill out the unexpired term.

Sec. 5. PAYMENT. The members of the County Board of Education shall receive $5.00 per day for the time spent in attending meetings, to be paid in the same manner and from the same funds as is now

provided by law; provided that they may not be allowed pay for more than 20 days in any one year.

Sec. 6. COUNTY SUPERINTENDENT. The County Superintendents of the counties now affected by this Bill shall serve the term for which they have been elected. Ninety days prior to the term of expiration of the County Superintendent, the County Board of Education shall, at a meeting, appoint his successor, who shall serve at the pleasure of said Board, provided no such appointment shall be made unless at an election to be held on the first Saturday in April, 1930, the qualified voters shall so impower and authorize the County Board to choose the County Superintendent; if otherwise, then the County Superintendent shall continue to be an elective officer as now provided by the General Laws of Texas. It shall be the duty of the County Judge to give public notice of the submission of the proposition of the employment of the County Superintendent; and provision shall be made for the submission of the proposition on the official ballot for county school trustees. The question shall be submitted on the ballot in the following form:

"For the employment of the County Superintendent of schools by the County Board of Trustees"; and

"Against the employment of the County Superintendent of schools by the County Board of Trustees."

The returns of the election on this question shall be made to the County Judge, to be canvassed by the Commissioners' Court, and such returns shall be duly canvassed and the results certified to the County Board of Trustees within thirty days after the date of said election. The County Superintendent shall be secretary of the County Board. The County Board of Education shall designate the salary of the County Superintendent of Education, subject to the provisions of this Act, provided the salary shall not be less than $3,600.00 and not more than $4,800.00. The County Board of Education shall appoint such assistants and clerical help for the County Superintendent as may be deemed necessary, subject to the provisions of this Act.

Sec. 7. SUPERVISION IN LIEU OF TEACHERS' INSTITUTE. The County Board of Education may, upon the recommendation of the County Superintendent, provide for the employment of such professional supervision as may be deemed necessary, this to be in lieu of the teachers' institute as now provided by law. The County Superintendent shall be exempt after the passage of this Act from such requirements as are now provided by law for the holding of

teachers' institute; and shall be empowered to provide for such meetings of the teachers of the county as may be deemed necessary and to require the attendance of all teachers upon such meetings.

Sec. 8. SCHOOL APPORTIONMENT. In making the annual per capita apportionment to the schools, the County Board of Education shall also make an annual allowance out of the State and County Available Funds for the salary and expense of the County Superintendent and such assistants, supervisors and clerical help as he may have, and such expenses shall be pro rated to all of the schools of the county; provided that in making this allowance for county administration, the per capita assessment against the scholastics of the districts shall not exceed $1.50, provided further that the salary of the County Superintendent for the month of September shall not be paid until he presents a receipt from the State Superintendent of Public Instruction showing that he has made all reports required of him. The County Superintendent shall nominate the principals and teachers for the various schools of the county under the supervision of the County Boards of Education, but this nomination shall be subject to confirmation by the district trustees. The district trustees shall have the power and right to refuse to confirm the nomination of the County Superintendent, and when such confirmation is refused, the County Superintendent shall nominate another teacher for such school, provided however, that not more than three nominations of teachers for any one teaching position be made under the provisions of this Section. In the event the district trustee should refuse to confirm the nomination of the County Superintendent as provided herein, the selection of the principal or teachers shall be by joint action of the district trustees and the County Superintendent in which case a majority vote shall prevail.

Sec. 9. CONTRACTS AND PURCHASES. The district trustees shall make all purchases of equipment and supplies for the various school districts and shall contract for all buildings and improvements and repairs and all other expenditures, but where the consideration involved is more than $100.00 such contracts and purchases shall be approved by the County Superintendent. The County Board of Education may, if so authorized in writing by the district trustees, purchase supplies and equipment for all the school districts in wholesale lots, upon requisitions made by the district trustees of the various schools.

Sec. 10. EQUALIZATION FUND. The County Board of Education shall

at its August meeting set aside such County Available School Funds as may have accrued from investments of the County Permanent School Funds and land notes and leases, and shall supplement this with an amount not exceeding 5% of the State Available School Funds apportioned to all the schools of the county, to be used as an equalization fund to be distributed by the County Board, under such rules and regulations as may be adopted by the County Board, provided that no district shall participate in this distribution that does not levy and collect a local tax for school purposes of at least seventy-five cents on each One Hundred Dollars property valuation of such district.

Acts 1929, 41st Leg., 2nd C.S., p. 49, ch. 31; Acts 1931, 42nd Leg., p. 798, ch. 324, Sec. 1.

Art. 2740f-2. COUNTY UNIT SYSTEM IN COUNTIES OF 5,600 TO 5,750.

Section 1. Any county in this State containing a population of not less than five thousand, six hundred (5,600) nor more than five thousand, seven hundred and fifty (5,750) according to the last preceding Federal Census shall have a county unit system of education to the extent specified in this Act, and for the purpose of levying, assessing, and collecting a school equalization tax, and for such other administrative functions as are herein set forth; the territory of each of such counties may be created into a county-wide school district in the manner hereinafter provided and may exercise the taxing power as hereinafter provided. There shall be exercised in and for the entire territory of each of such counties, to the extent in this Act prescribed, the taxing power conferred on school districts by Article 7, Section 3, of the Constitution, but such taxing power shall not be exercised until and unless authorized by a majority of the qualified property taxpaying voters residing therein at an election to be held for that purpose as hereinafter provided.

Sec. 2. On the petition of as many as one hundred (100) legally qualified voters of any county coming under the provisions of this Act praying for the formation of such county-wide school district, the County Judge shall, within thirty (30) days, order an election to be held throughout the county. The County Judge shall give notice of the date of such election by publication of the order in some newspaper published in the county for twenty (20) days prior to the

date of such election, and all legally qualified voters shall be allowed to vote at said election. The form of ballot shall be substantially as follows:

"For Equalization District"

"Against Equalization District"

The Commissioners Court shall at its next regular meeting canvass the returns of said election, and if a majority of votes cast shall favor the formation of such district, the Court shall declare the result thereof and declare the county-wide school equalization district duly and legally created and the provisions of this Act duly adopted.

Sec. 3. The general management, supervision, and control of the public schools and of the educational interests of each county adopting the provisions of this law shall be vested in the County Board of School Trustees, except as otherwise provided by law, and said Board shall perform such duties as are or may be required of it by existing law and by the provisions of this Act and shall constitute the Board of Trustees for such county-wide district. Any such county-wide school equalization district formed in the manner hereinabove provided may levy and collect annually on all taxable property in the county an equalization tax not to exceed Twenty (20) Cents on the One Hundred Dollars ($100) valuation of property situated in said county, and the money derived from such tax shall be known as an equalization fund for the support of the public schools of the county, which fund shall be distributed to the school districts of the county as provided herein.

Sec. 4. On the petition of as many as one hundred (100) legally qualified property taxpaying voters of any county which shall have adopted the provisions of this Act, praying for the authority to levy and collect said tax, the County Judge shall immediately order an election to be held throughout the county, said election to be held not more than thirty (30) days from the date of such order. The County Judge shall give notice of such election by publication of the order in some newspaper published in the county for twenty (20) days prior to the date of such election. Only legally qualified property taxpaying voters, who own property in the county and who have duly rendered the same for taxation, shall be allowed to vote in said election. The form of ballot is substantially as follows:

"For County Tax"

"Against County Tax"

The Commissioners Court shall, at its next regular or special

meeting, canvass the returns of said election, and if a majority of the votes cast shall favor such tax, the Court shall declare the results and certify same to the County Board of School Trustees and to the County Tax Assessor and Collector, and said Board of County School Trustees shall thereupon be authorized to levy said tax and the County Tax Assessor and Collector shall be authorized to assess and collect same. No election to revoke said tax shall be ordered until the expiration of three (3) years from the date of the election at which said tax was adopted.

Sec. 5. In the counties adopting the provisions of this law, the County Tax Assessor shall assess all of the taxable property in the county at the same rate of valuation as it is assessed for State and county purposes, and the County Tax Collector shall collect said tax at the same time and in the same manner as other State and county taxes are collected. The Tax Collector shall deposit the money collected from said tax in a separate fund to be known as the County Equalization Fund for the support of the public schools of the county. He shall have the same authority, and the same laws shall apply in the collection of said tax as in the collection of county ad valorem taxes. He shall, on or about the 10th of each month, make a report to the County Board of School Trustees and to the County Superintendent of schools, showing all moneys collected by him during the last month by said tax, and shall each month place such funds in the Equalization Fund. The County Superintendent shall keep a record, both received and paid out, of all money from said Fund. The officers assessing and collecting said equalization tax shall receive therefor the same compensation as is paid for assessing and collecting school taxes in common school districts; however, no part of the moneys realized from said county-wide maintenance tax shall be used to pay any present or future bond issues or interest thereon, and the moneys received and held by independent school districts shall be protected in accordance with the existing depository laws. And the Tax Collector shall place to the credit of the common school districts in such county such moneys as are apportioned to them, which shall be protected as provided by the existing depository laws.

Sec. 6. The Tax Collector, before entering upon the duties of his office, shall enter into a bond, with two (2) or more good and sufficient sureties, or surety bond, for the protection of said Equalization Fund, said bond to be made payable to the County Board of School Trustees, and to be made in a sum not less than double the

amount of money which he may have in his possession of said Fund at any time. The amount of said bond shall be fixed by the County Board of School Trustees. The County Board shall require a similar bond of any and all other persons or corporations in whose possession such Funds may be kept.

Sec. 7. The County Board of School Trustees shall distribute the money collected from any taxes levied by said district to the common and independent districts of the county on a per capita basis according to the number of scholastic pupils shown by the last preceding official scholastic census, and county-line districts shall be eligible to receive such per capita apportionment based upon the number of scholastic pupils residing in the county of such equalization district, as shown by the lastest official scholastic census of such district. The County Board of School Trustees shall issue warrants against such Equalization Fund to the school district trustees on a per capita basis of scholastic pupils in each district; provided that the County Board may, from time to time, as the money is collected, issue warrants to the various school districts in proportion to the amount that each is entitled to receive on such per capita basis of scholastic pupils in the respective districts.

Sec. 8. The several independent school districts and common school districts in such county shall continue to have authority to levy, assess, and collect the maintenance taxes theretofore authorized by the property taxpayers in said respective districts. This law shall not affect the right and duty of said respective school districts to levy, assess, and collect taxes within their respective districts for the payment of principal and interest on bonded indebtedness of such districts. The respective districts shall continue to levy, assess, and collect taxes sufficient to pay principal of, and interest on their bonds. Provided, however, that nothing in this Act shall prevent the proper authorities from collecting and enforcing for the benefit of the respective districts, any maintenance taxes levied before this law becomes effective.

Sec. 9. This Act shall not have the effect of changing any duties imposed on or powers conferred on the trustees of any common or independent school districts situated in the counties covered by this Act, unless and except as expressly provided herein, it being the intention of this law that said respective Boards of Trustees shall continue to administer their lawful duties and powers as now authorized by law, but the equalization tax authorized shall be

levied by the County Board of School Trustees and assessed and collected by the County Tax Assessor and Collector.

Sec. 10. In case any clause, sentence, paragraph, section, or part of this Act shall be held unconstitutional or void, then, and in that event, it shall not affect any other clause, sentence, paragraph, section, or part of this Act. All laws, or parts of laws, both general and special, in conflict with this Act are hereby repealed.

Acts 1937, 45th Leg., p. 315, ch. 163.

Art. 2740f-3. COUNTY UNIT SYSTEM IN COUNTIES OF 7,500 TO 7,590.

Section 1. Any county in this State containing a population of not less then seven thousand, five hundred (7,500) nor more than seven thousand, five hundred and ninety (7,590) according to the last preceding Federal Census, or any future Federal Census, shall have a county unit system of education to the extent specified in this Act, and for the purpose of levying, assessing, and collecting a school equalization tax, and for such other administrative functions as are herein set forth; the territory of each of such counties may be created into a county-wide school district in the manner hereinafter provided and may exercise the taxing power as hereinafter provided. There shall be exercised in and for the entire territory of each of such counties, to the extent in this Act prescribed, the taxing power conferred on school districts, by Article 7, Section 3 of the Constitution, but such taxing power shall not be exercised until and unless authorized by a majority of the qualified property taxpaying voters residing therein at an election to be held for that purpose as hereinafter provided.

Sec. 2. On the petition of as many as one hundred (100) legally qualified voters of any county coming under the provisions of this Act praying for the formation of such county-wide school district, the County Judge shall, within thirty (30) days, order an election to be held throughout the county. The County Judge shall give notice of the date of such election by publication of the order in some newspaper published in the county for twenty (20) days prior to the date of such election, and all legally qualified voters shall be allowed to vote at said election. The form of ballot shall be substantially as follows:

"For Equalization District."

"Against Equalization District."

The Commissioners Court shall at its next regular meeting canvass the returns of said election, and if a majority of votes cast shall favor the formation of such district, the Court shall declare the result thereof and declare the county-wide school equalization district duly and legally created and the provisions of this Act duly adopted.

Sec. 3. The general management, supervision, and control of the public schools and of the educational interests of each county adopting the provisions of this law shall be vested in the County Board of School Trustees for such county-wide district. Any such county-wide school equalization district formed in the manner hereinabove provided may levy and collect annually on all taxable property in the county an equalization tax not to exceed twenty (20) cents on the one hundred dollars valuation of property situated in said county and the money derived from such tax shall be known as an Equalization Fund for the support of the public schools of the county, which Fund shall be distributed to the school districts of the county as provided herein.

Sec. 4. On the petition of as many as one hundred (100) legally qualified property taxpaying voters of any county which shall have adopted the provisions of this Act, praying for the authority to levy and collect said tax, the County Judge shall immediately order an election to be held throughout the county, said election to be held not more than thirty (30) days from the date of such order. The County Judge shall give notice of such election by publication of the order in some newspaper published in the county for twenty (20) days prior to the date of such election. Only legally qualified property taxpaying voters, who own property in the county and who have duly rendered the same for taxation, shall be allowed to vote in said election. The form of ballot is substantially as follows:

"For County Tax."

"Against County Tax."

The Commissioners Court shall, at its next regular or special meeting, canvass the returns of said election, and if a majority of the votes cast shall favor such tax, the Court shall declare the results and certify same to the County Board of School Trustees and the County Tax Assessor and Collector shall be authorized to assess and collect same. No election to revoke said tax shall be ordered until the expiration of three (3) years from the date of the election

at which said tax was adopted.

Sec. 5. In the counties adopting the provisions of this law, the County Tax Assessor shall assess all of the taxable property in the county at the same rate of valuation as it is assessed for State and county purposes, and the County Tax Collector shall collect said tax at the same time and in the same manner as other State and county taxes are collected. The Tax Collector shall deposit the money collected from said tax in a separate fund to be known as the County Equalization Fund for the support of the public schools of the county. He shall have the same authority, and the same laws shall apply in the collection of said tax as in the collection of county ad valorem taxes. He shall, on or about the 10th of each month, make a report to the County Board of School Trustees and to the County Superintendent of Schools, showing all moneys collected by him during the last month by said tax, and shall each month place such funds in the Equalization Fund. The County Superintendent shall keep a record, both received and paid out, of all moneys from said Fund. The officers assessing and collecting said equalization tax shall receive therefor the same compensation as is paid for assessing and collecting school taxes in common school districts; however, no part of the moneys realized from said county-wide maintenance tax shall be used to pay any present or future bond issues or interest thereon, and the moneys received and held by independent school districts shall be protected in accordance with the existing depository laws. And the Tax Collector shall place to the credit of the common school districts in such county such moneys as are apportioned to them, which shall be protected as provided by the existing depository laws.

Sec. 6. The Tax Collector, before entering upon the duties of his office, shall enter into a bond, with two (2) or more good and sufficient sureties, or surety bond, for the protection of said Equalization Fund, said bond to be made payable to the County Board of School Trustees. The County Board shall require a similar bond of any and all other persons or corporations in whose possession such funds may be kept.

Sec. 7. The County Board of School Trustees shall distribute the money collected from any taxes levied by said district to the common and independent districts of the county on a per capita basis according to the number of scholastic pupils shown by the last preceding official scholastic census, and county line districts shall be eligible to receive such per capita apportionment based upon the

number of scholastic pupils residing in the county of such equalization district, as shown by the latest official scholastic census of such district. The County Board of School Trustees shall issue warrants against such Equalization Fund to the school district trustees on a per capita basis of scholastic pupils in each district; provided that the County Board may, from time to time, as the money is collected, issue warrants to the various school districts in proportion to the amount that each is entitled to receive on such per capita basis of scholastic pupils in the respective districts.

Sec. 8. The several independent school districts and common school districts in such county shall continue to have authority to levy, assess, and collect the maintenance taxes theretofore authorized by the property taxpayers in said respective districts. This law shall not affect the right and duty of said respective school districts to levy, assess, and collect taxes within their respective districts for the payment of principal and interest on bonded indebtedness of such districts. The respective districts shall continue to levy, assess, and collect taxes sufficient to pay principal of and interest on their bonds. Provided, however, that nothing in this Act shall prevent the proper authorities from collecting and enforcing, for the benefit of the respective districts, any maintenance taxes levied before this law becomes effective.

Sec. 9. This Act shall not have the effect of changing any duties imposed on or powers conferred on the trustees of any common or independent school districts situated in the counties covered by this Act, unless and except as expressly provided herein, it being the intention of this law that said respective Boards of Trustees shall continue to administer their lawful duties and powers as now authorized by law, but the equalization tax authorized shall be levied by the County Board of School Trustees and assessed and collected by the County Tax Assessor and Collector.

Sec. 10. In case any clause, sentence, paragraph, section, or part of this Act shall be held unconstitutional or void, then, and in that event, it shall not affect any other clause, sentence, paragraph, or section of this Act. All laws or parts of laws, both general and special, in conflict with this Act are hereby repealed.

Acts 1941, 47th Leg., p. 121, ch. 95.

Art. 2740f-4. COUNTY UNIT SYSTEM IN COUNTIES OF 10,339 TO 10,540; POWERS AND DUTIES OF COMMISSIONERS' COURT.

Section 1. This Act is applicable to counties with a population of not less than ten thousand, three hundred and thirty-nine (10,339) and not more than ten thousand, five hundred and forty (10,540), according to the latest Federal Census. Any county coming within the terms of this Act shall have a County Unit System of Education to the extent specified in this Act. For the purpose of levying, assessing, and collecting a school maintenance tax and for such further administrative functions as are set forth herein, the territory of each of such counties is hereby created into a school district, hereinafter described as the county-wide district, the taxing power to be exercised as hereinafter provided. There shall be exercised in and for the entire territory of each of such counties, to the extent in this Act prescribed, the taxing power conferred on school districts by Article VII, Section 3 of the Constitution, but such taxing power shall not be exercised until and unless authorized by a majority of the qualified property taxpaying voters residing therein at an election to be held for that purpose as hereinafter provided. Whenever a petition is presented to the County Judge of any such county, signed by at least one hundred (100) qualified property taxpaying voters residing therein, asking that an election be ordered for the purpose of determining whether or not a maintenance tax shall be levied, assessed, and collected on all taxable property within said county for the maintenance of public schools therein, not exceeding Twenty-five (25) Cents on the one hundred dollars of assessed valuation of taxable property, it shall be the duty of the County Judge, immediately, to order an election to be held within said county to detemine said question. Notice of said election shall be given by publishing a copy of the election order in a newspaper of general circulation in said county once each week for at least two (2) weeks, the date of the first publication to be not less than twenty (20) days prior to the date fixed for holding said election. Further notice shall be given by the posting of a copy of said election notice within the boundaries of each independent and each common school district, and one copy of said notice shall be posted at the courthouse door. Said notice shall be posted at least twenty (20) days prior to the date fixed for said election. Except as otherwise provided herein, the manner of holding said election shall be controlled by the General Election Laws of the State, and only

resident, qualified property taxpaying voters shall be permitted to vote at said election. Said election shall be held at the usual voting places in the several election precincts of such county. Said election returns shall be made and delivered to the County Judge and shall be canvassed by the Commissioners Court of such county at its next regular or special meeting following said election. A majority vote of those voting at said election shall be sufficient to carry said election. The result of said election shall be recorded in the Minutes of the Commissioners Court and certified by the County Clerk and Ex Officio Clerk of the Commissioners Court to the County Superintendent or Ex Officio Superintendent of said county.

Sec. 2. In event said maintenance tax is adopted at such election, after the result of the election has been certified to the County Superintendent, he shall make a permanent record of such certificate and shall send a certified copy of same to the State Department of Education at Austin, Texas, for its information and guidance.

Sec. 3. As soon as the Commissioners Court of such county has determined the total of the assessed value of taxable property according to the value fixed by the Board of Equalization, which values shall be the same as those fixed for State and county taxation purposes, subject thereafter to ordinary corrections, it shall then perform the following duties:

(a) determine the estimated total receipts from the levying and collecting of said Twenty-five (25) Cents tax on the property in the county-wide district according to such valuation;

(b) to determine the estimated amount of money apportionable to each scholastic on the basis of equal per capita distribution according to the then current census of scholastics for the several districts;

(c) to determine the estimated amount of such money available for each common and independent school district according to such per capita distribution;

(d) to cause the ex officio Clerk of such Court to communicate a copy of the order fixing the estimated amount for each independent school district to the president thereof and for each common school district to the County Superintendent or ex officio County Superintendent of such county.

Sec. 4. It shall be the duty of the Commissioners Court at the time other taxes are levied in the county to levy a tax under this

law of Twenty-five (25) Cents on the one hundred dollars valuation in said county for that year. Such taxes shall be assessed by the Tax Assessor and collected by the Tax Collector as other taxes are assessed and collected. The money collected from said Twenty-five (25) Cents tax shall be distributed to the various school districts in such county as follows:

All districts in the county shall receive the same amount of money for each scholastic, for the maintenance of schools in such district. No part of the moneys realized from said county-wide maintenance tax shall be used to pay any present or future bond issues or interest thereon. The Tax Collector shall, each month, apportion to each district the pro rata part of the taxes collected and dispose of same as hereinafter provided. The valuations fixed by the County Board of Equalization for State and county taxation purposes shall be used in computing said taxes and in levying and collecting the same. The budget officer of each school district in said county as provided by Statute, and the trustees of each of said districts, after receiving the notice of the estimate of the Commissioners Court as herein provided for, and the notice of the State apportionment of public school funds to said district, shall proceed to make and approve the budget for their respective districts as provided by Acts 1931, Forty-second Legislature, Regular Session, page 339, Chapter 206.

Sec. 5. As and when said taxes are collected by the Tax Collector of the county, he shall make monthly settlements with the independent school districts situated in such county, said moneys to be received and held by said independent school districts and protected in accordance with the existing depository laws. And the Tax Collector shall place to the credit of the common school districts in such county such moneys as are apportioned to them, which shall be protected as provided by the existing depository laws.

Sec. 6. The several independent school districts and common school districts in such county shall continue to have authority to levy, assess, and collect the maintenance taxes theretofore authorized by the property taxpayers in said respective districts, subject to the restrictions that after said county-wide maintenance tax election has been carried and while said tax is in full force and operation, said respective independent school districts and common school districts shall not thereafter levy, assess, and collect any special tax for maintenance of schools, except in instances wherein

the apportionment made by the Commissioners Court, together with the apportionment made by the State of Texas, produces an amount inadequate to meet the approved budget of such district, and in that event, such tax shall be levied in an amount to meet such deficit, due allowance to be made for delinquencies and for costs of collection. This law shall not affect the right and duty of said respective school districts to levy, assess, and collect taxes within their respective districts for the payment of principal and interest on bonded indebtedness of such districts. The respective districts shall continue to levy, assess, and collect taxes sufficient to pay principal of and interest on their bonds. Provided however, that nothing in this Act shall prevent the proper authorities from collecting and enforcing, for the benefit of the respective districts, any maintenance taxes levied before this law becomes effective.

Sec. 7. Until and unless said county-wide maintenance tax has been authorized at an election held in such county, the duties and powers of the Commissioners Court shall not be considered as having been changed, altered, or enlarged by this Act.

Sec. 8. This Act shall not have the effect of changing any duties imposed on or powers conferred on the trustees of school districts situated in the counties covered by this Act, unless and except as expressly provided herein, it being the intention of this law that said respective Boards of Trustees shall continue to administer their lawful duties and powers except as to the levying, assessing, and collecting of maintenance taxes, and the powers and duties as to levying, assessing, and collecting maintenance taxes shall remain unaffected except as modified as provided herein.

Sec. 9. This Act shall be considered as cumulative of other laws applicable to the counties affected, but in event any provision of this law is inconsistent with any other applicable law, the provisions of this Act shall prevail as to the counties affected. All laws and parts of laws in conflict with the provisions of this Act, in so far as they apply to the counties affected, are hereby repealed.

Sec. 10. The Commissioners Court shall have advisory superivision over the schools in the county to the extent that it shall be the duty of the Court to render its advice on all administrative matters submitted by the several Boards of Trustees.

Sec. 11. In event any section, paragraph, sentence, clause, or

phrase of this Act shall be held to be unconstitutional, such holding shall not affect the other provisions of the Act no so invalidated.

Acts 1941, 47th Leg., p. 400, ch. 233.

Art. 2740f-5. COUNTY UNIT SYSTEM IN COUNTIES OF 27,000 TO 30,000.

Section 1. TAXING POWER. Any county in this state, having a population of not less than twenty-seven thousand (27,000) and not more than thirty thousand (30,000) according to the last preceding Federal Census and having an assessed valuation for ad valorem tax purposes of not less than Seventy Million ($70,000,000.00) Dollars according to the tax rolls of said county for the preceding year, shall have a county unit system of education to the extent specified in this Act, and for the purpose of levying, assessing and collecting a school equalization tax, and for such other administrative functions as are herein set forth; the territory of each of such counties may be created into a county-wide school district in the manner hereinafter provided and may exercise the taxing power as hereinafter provided. There shall be exercised in and for the entire territory of each of such counties, to the extent in this Act prescribed, the taxing power conferred on school districts by Article 7, Section 3, of the constitution, but such taxing power shall not be exercised until and unless authorized by a majority of the qualified property taxpaying voters residing therein at an election to be held for that purpose as hereinafter provided.

Sec. 2. ELECTION ON ADOPTION. On the petition of as many as one hundred (100) legally qualified voters of any county coming under the provisions of this Act praying for the formation of such county-wide school district, the County Judge, shall, within thirty (30) days, order an election to be held throughout the county. The County Judge shall give notice of the date of such election by publication of the order in some newspaper published in the county for twenty (20) days prior to the date of such election, and all legally qualified voters shall be allowed to vote at said election. The form of ballot shall be substantially as follows:

"For Equalization District"; or

"Against Equalization District".

The Commissioners Court shall at its next regular meeting canvass the returns of said election, and if a majority of votes cast shall favor the formation of such district, the court shall declare the result thereof and declare the county-wide school equalization district duly and legally created and the provisions of this Act duly adopted.

Sec. 3. MANAGEMENT; EQUALIZATION TAX. The general management, supervision and control of the public schools and of the educational interests of each county adopting the provisions of this law shall be vested in the County Board of School Trustees, except as otherwise provided by law, and said Board shall perform such duties as are or may be required of it by existing law and by the provisions of this Act and shall constitute the Board of Trustees for such county-wide district. Any such county-wide school equalization district formed in the manner hereinabove provided may levy and collect annually on all taxable property in the county an equalization tax not to exceed Ten (10¢) cents on the One Hundred ($100.00) Dollars valuation of property situated in said county, and the money derived from such tax shall be known as an equalization fund for the support of the public schools of the county, which fund shall be distributed to the school districts of the county as provided herein.

Sec. 4. ELECTION ON TAX. On the petition of as many as one hundred (100) legally qualified property taxpaying voters of any county which shall have adopted the provisions of this Act, praying for the authority to levy and collect said tax, the County Judge shall immediately order an election to be held throughout the county, said election to be held not more than thirty (30) days from the date of such order. The County Judge shall give notice of such election by publication of the order in some newspaper published in the county for twenty (20) days prior to the date of such election. Only legally qualified property taxpaying voters, who own property in the county and who have duly rendered the same for taxation, shall be allowed to vote in said election. The form of ballot is substantially as follows:

"For County Tax;" or

"Against County Tax"

The Commissioners Court shall, at its next regular meeting, canvass the returns of said election, and if a majority of the votes cast shall favor such tax, the court shall declare the result and certify same to the County Board of School Trustees and to the County Tax Assessor and Collector, and said Board of County School Trustees

shall thereupon be authorized to levy said tax and the County Tax Assessor and Collector shall be authorized to assess and collect same. No election to revoke said tax shall be ordered until the expiration of three (3) years from the date of the election at which said tax was adopted.

Sec. 5. ASSESSMENT AND COLLECTION OF TAX. In the counties adopting the provisions of this law, the County Tax Assessor shall assess all of the taxable property in the county at the same rate of valuation as it is assessed for state and county purposes, and the County Tax Collector shall collect said tax at the same time and in the same manner as other state and county taxes are collected. The Tax Collector shall deposit the money collected from said tax in a separate fund to be known as the County Equalization Fund for the support of the public schools of the county. He shall have the same authority, and the same laws shall apply in the collection of said tax as in the collection of county ad valorem taxes. He shall, on or about the 10th of each month, make a report to the County Board of School Trustees and to the County Superintendent of Schools, showing all moneys collected by him during the last month by said tax, and shall each month place such funds in the equalization fund. The County Superintendent shall keep a record, both received and paid out, of all money from said fund. The officers assessing and collecting said equalization tax shall receive therefor the same compensation as is paid for assessing and collecting school taxes in common school districts.

Sec. 6. BOND. The Tax Collector, before entering upon the duties of his office, shall enter into a bond, with two (2) or more good and sufficient sureties, or surety bond, for the protection of said equalization fund, said bond to be made payable to the County Board of School Trustees, and to be made in a sum not less than double the amount of money which he may have in his possession of said fund at any time. The amount of said bond shall be fixed by the County Board of School Trustees. The County Board shall require a similar bond of any and all other persons or corporations in whose possession such funds may be kept.

Sec. 7. DISTRIBUTION OF TAX MONEY. The County Board of School Trustees shall distribute the money collected from any taxes levied by said District under the provisions of this Act to the common and independent districts of the county according to the financial needs of said school districts. The County Board of School Trustees shall

determine the needs of said respective school districts and allocate said funds to said respective school districts so as to provide a salary of not less than Two Thousand ($2,000.00) Dollars per year to any teacher employed in any school within the county complying with the provisions of this Act. If the funds received by any such school district from the State Available School Fund, from the rural aid funds provided by the state and from the local taxes received by such school district, together with any funds received from any other source, are insufficient to provide the minimum salary, it shall be the duty of said County School Board to provide from the funds derived by the tax levied under the provisions of this Act sufficient funds to enable such school district to pay said minimum salary. After said school trustees shall have provided for the said minimum salary for all teachers employed in the public schools of such county, it shall be their duty to allocate and distribute the remaining funds provided by the tax to be levied under the provisions of this Act in such manner as to them shall appear best in assisting those schools that are in most need of said funds.

Sec. 8. TRUSTEES' DUTIES AND POWERS NOT AFFECTED; LEVY AND COLLECTION OF TAX. This Act shall not have the effect of changing any duties imposed on or powers conferred on the trustees of any common or independent school districts situated in the counties covered by this Act, unless and except as expressly provided herein; it being the intention of this law that said respective Boards of Trustees shall continue to administer their lawful duties and powers as now authorized by law, but the equalization tax authorized shall be levied by the County Board of School Trustees and assessed and collected by the County Tax Assessor and Collector.

Sec. 9. PARTIAL INVALIDITY; REPEAL OF CONFLICTING LAWS. In case any clause, sentence, paragraph, section or part of this Act shall be held unconstitutional or void, then, and in that event, it shall not affect any other clause, sentence, paragraph, section or part of this Act. All laws, or parts of laws, both general and special, in conflict with this Act, are hereby repealed.

Acts 1947, 50th Leg., p. 800, ch. 399.

Art. 2740g. COUNTY UNIT SCHOOL SYSTEM IN COUNTIES HAVING LARGE

AREAS IN REFORESTATION.

Section 1. TAXING POWER. Any county in this State wherein the United States Government has acquired or shall hereafter acquire large tracts of land containing one thousand (1,000) acres or more or wherein such lands have been approved by the United States Government for purchase for the purpose of reforestation and whose assessed valuation of property is not less than Forty Million Dollars ($40,000,000), shall have a county unit system of education to the extent specified in this Act, and for the purpose of levying, assessing and collecting a school equalization tax, and for such other administrative functions as are herein set forth; the territory of each of such counties may be created into a county wide school district in the manner hereinafter provided and may exercise the taxing power as hereinafter provided. There shall be exercised in and for the entire territory of each of such counties, to the extent in this Act prescribed, the taxing power conferred on school districts by Article 7, Section 3, of the Constitution, but such taxing power shall not be exercised until and unless authorized by a majority of the qualified property taxpaying voters residing therein at an election to be held for that purpose as hereinafter provided.

Sec. 2. PETITION, NOTICE OF ELECTION AND BALLOT. On the petition of as many as one hundred (100) legally qualified voters of any county coming under the provisions of this Act praying for the formation of such county wide school district, the County Judge shall, within thirty (30) days, order an election to be held throughout the county. The County Judge shall give notice of the date of such election by publication of the order in some newspaper published in the county for twenty (20) days prior to the date of such election, and all legally qualified voters shall be allowed to vote at said election. The form of ballot shall be substantially as follows:

"For Equalization District"

"Against Equalization District"

The Commissioners Court shall at its next regular meeting canvass the returns of said election, and if a majority of votes cast shall favor the formation of such district, the Court shall declare the result thereof and declare the county wide school equalization district duly and legally created and the provisions of this Act duly adopted.

Sec. 3. SUPERVISION BY COUNTY BOARD OF TRUSTEES. The general management, supervision and control of the public schools and of the

educational interests of each county adopting the provisions of this law shall be vested in the county board of school trustees, except as otherwise provided by law, and said board shall perform such duties as are or may be required of it by existing law and by the provisions of this Act and shall constitute the board of trustees for such county wide district. Any such county wide school equalization district formed in the manner hereinabove provided may levy and collect annually on all taxable property in the county an equalization tax not to exceed twenty-five (25) cents on the One Hundred Dollars ($100) valuation of property situated in said county, and the money derived from such tax shall be known as an equalization fund for the support of the public schools of the county, which fund shall be distributed to the school districts of the county as provided herein.

Sec. 4. PETITION AND ELECTION FOR TAX. On the petition of as many as one hundred (100) legally qualified property taxpaying voters of any county which shall have adopted the provisions of this Act, praying for the authority to levy and collect said tax, the County Judge shall immediately order an election to be held throughout the county, said election to be held not more than thirty (30) days from the date of such order. The County Judge shall give notice of such election by publication of the order in some newspaper published in the county for twenty (20) days prior to the date of such election. Only legally qualified property taxpaying voters, who own property in the county and who have duly rendered the same for taxation, shall be allowed to vote in said election. The form of ballot is substantially as follows:

"For County Tax"

"Against County Tax"

The Commissioners Court shall, at its next regular meeting, canvass the returns of said election, and if a majority of the votes cast shall favor such tax, the Court shall declare the result and certify same to the county board of school trustees and to the county tax assessor and collector, and said board of county school trustees shall thereupon be authorized to levy said tax and the county tax assessor and collector shall be authorized to assess and collect same. No election to revoke said tax shall be ordered until the expiration of three (3) years from the date of the election at which said tax was adopted.

Sec. 5. ASSESSMENT AND COLLECTION OF TAX, SEGREGATION AS COUNTY

EQUALIZATION FUND. In the counties adopting the provisions of this law, the county tax assessor shall assess all of the taxable property in the county at the same rate of valuation as it is assessed for State and county purposes, and the county tax collector shall collect said tax at the same time and in the same manner as other State and county taxes are collected. The tax collector shall deposit the money collected from said tax in a separate fund to be known as the County Equalization Fund for the support of the public schools of the county. He shall have the same authority, and the same laws shall apply in the collection of said tax as in the collection of county ad valorem taxes. He shall, on or about the tenth of each month, make a report to the county board of school trustees and to the county superintendent of schools, showing all moneys collected by him during the last month by said tax, and shall each month place such funds in the equalization fund. The county superintendent shall keep a record, both received and paid out, of all money from said fund. The officers assessing and collecting said equalization tax shall receive therefor the same compensation as is paid for assessing and collecting school taxes in common school districts.

Sec. 6. BOND OF TAX COLLECTOR. The tax collector, before entering upon the duties of his office, shall enter into a bond, with two (2) or more good and sufficient sureties, or surety bond, for the protection of said equalization fund, said bond to be made payable to the county board of school trustees, and to be made in a sum not less than double the amount of money which he may have in his possession of said fund at any time. The amount of said bond shall be fixed by the county board of school trustees. The county board shall require a similar bond of any and all other persons or corporations in whose possession such funds may be kept.

Sec. 7. DISTRIBUTION OF TAXES COLLECTED. The county board of school trustees shall distribute the money collected from any taxes levied by said district to the common and independent districts of the county on a per capita basis according to the number of scholastic pupils shown by the last preceding official scholastic census, and county line districts shall be eligible to receive such per capita apportionment based upon the number of scholastic pupils residing in the county of such equalization district, as shown by the latest official scholastic census of such district. The county board of school trustees shall issue warrants against such equalization fund to the school district trustees on a per capita basis of

scholastic pupils in each district; provided that the county board may, from time to time, as the money is collected, issue warrants to the various school districts in proportion to the amount that each is entitled to receive on such per capita basis of scholastic pupils in the respective districts.

Sec. 8. OPERATION AND EFFECT OF ACT. This Act shall not have the effect of changing any duties imposed on or powers conferred on the trustees of any common or independent school districts situated in the counties covered by this Act, unless and except as expressly provided herein, it being the intention of this law that said respective boards of trustees shall continue to administer their lawful duties and powers as now authorized by law, but the equalization tax authorized shall be levied by the county board of school trustees and assessed and collected by the county tax assessor and collector.

Sec. 9. PARTIAL INVALIDITY, REPEALS. In case any clause, sentence, paragraph, section or part of this Act shall be held unconstitutional or void, then, and in that event, it shall not affect any other clause, sentence, paragraph, section or part of this Act. All laws, or parts of laws, both general and special, in conflict with this Act are hereby repealed.

Acts 1935, 44th Leg., p. 284, ch. 103.

Art. 2740h. COMPENSATION OF MEMBERS OF BOARD OF COUNTY SCHOOL TRUSTEES IN COUNTIES OF 8,470 TO 8,480 POPULATION. In all counties having a total population of not more than thirty thousand, nine hundred and twenty-five (30,925) and not less than thirty thousand, nine hundred and fifteen (30,915), according to the last preceding Federal Census, and at the same time in those counties having a scholastic population of not more than eight thousand, four hundred and eighty (8,480) and not less than eight thousand, four hundred and seventy (8,470), according to the latest scholastic census as contained in the Public School Directory of the State Department of Education, the salary of a member of a county board of school trustees shall be Five Dollars ($5) per day, provided that not more than twelve (12) meetings shall be held in any fiscal year for which reimbursement is paid.

Acts 1939, 46th Leg., Spec.L., p. 690, Sec. 1.

TITLE 51. ELEEMOSYNARY INSTITUTIONS
CHAPTER 1. GENERAL PROVISIONS

Art. 3183b-1. EMINENT DOMAIN BY CERTAIN NONPROFIT CHARITABLE CORPORATIONS.

Sec. 1. Except as provided by this section, and notwithstanding any other law, any nonprofit corporation incorporated under the laws of this state for purely charitable purposes and which is directly affiliated or associated with a medical center having a medical school recognized by the Council on Medical Education and Hospitals of the American Medical Association as an integral part of its establishment, and which has for a purpose of its incorporation the provision or support of medical facilities or services for the use and benefit of the public, and which is situated in any county of this state having a population in excess of six hundred thousand (600,000) inhabitants according to the most recent Federal Census shall have the power of eminent domain and condemnation for the purposes set forth in Section 2 and Section 3 of this Act. A charitable corporation described by this section may not exercise the power of eminent domain and condemnation to acquire a detached, single-family residential property or a multifamily residential property that contains eight or fewer dwelling units.

Sec. 2. ACQUISITION OF LANDS ADJACENT TO MEDICAL CENTER FOR CONSTRUCTION, MAINTENANCE AND OPERATION OF FACILITIES. Any charitable corporation as defined in Section 1 of this Act shall have the power of eminent domain and condemnation for the purpose of acquiring lands adjacent or contiguous (whether or not separated by public thoroughfares) to such medical center upon which are to be constructed, maintained, and operated as a part of the medical center, facilities dedicated to medical care, teaching, and research for the public welfare, including ancillary or service activities generally and customarily recognized as essential to such facilities in a medical center.

Sec. 3. ACQUISITION OF LANDS ADJACENT TO MEDICAL CENTER FOR PURPOSE OF CONVEYING OR LEASING; USE OF LANDS. Any charitable corporation as defined in Section 1 of this Act shall have the power of eminent domain and condemnation for the purpose of acquiring lands adjacent or contiguous (whether or not separated by public

thoroughfares) to such medical center for the purpose of conveying or leasing such lands in the manner set forth in Section 4 of this Act to any nonprofit corporation, association, foundation or trust for the construction, maintenance, and operation of facilities to be a part of the medical center and dedicated to medical care, teaching, or research for the public welfare, including ancillary or service activities generally and customarily recognized as essential to such facilities in a medical center.

Sec. 4. AUTHORITY AND POWER TO CONTROL PROPERTY ACQUIRED; DEEDS OF CONVEYANCE OR LEASE. Any charitable corporation as defined in Section 1 of this Act in the exercise of the power of eminent domain conferred herein shall have full authority and power to control the property acquired for the purposes authorized herein, and shall have the authority to convey such property or to lease the same for a period of ninety-nine (99) years with an option to renew. Any deed of conveyance or lease as provided in Section 3 of this Act shall set forth the defeasance or conditions under which the property is conveyed or leased and the fact that it is dedicated to medical care, teaching, or research for the public welfare.

Sec. 5. REVERSION OF TITLE TO ORIGINAL OWNER. It is expressly provided that if any property acquired under authority of this Act is not used for the purpose of medical care, teaching, or research or essential ancillary and service activities, but use for such purposes is abandoned, title to the property shall revert to the original owner from whom such property was acquired by condemnation pursuant to this Act, or to his heirs, devisees, or assigns.

Sec. 6. (a) Except as provided by Subsection (b) of this section, the power of eminent domain granted by this Act shall be exercised in accordance with Chapter 21, Property Code.

(b) If a charitable corporation to which this Act applies seeks to acquire any real property by condemnation or seeks to purchase any real property that the corporation intends to use in a manner that would not comply with any deed restriction that applies to the property immediately before the purchase, before the charitable corporation initiates condemnation proceedings or records the deed conveying title to the property the charitable corporation shall, in addition to providing any other notice required by law, provide written notice by certified mail to the owner of record, as recorded in the real property records of the county, of each unit of real property:

(1) that the charitable corporation seeks to acquire or purchase; or

(2) that is not more than 200 feet from any boundary of any unit of real property the charitable corporation seeks to acquire or purchase.

Acts 1959, 56th Leg., p. 367, ch. 178, eff. Aug. 11, 1959.
Amended by:

Acts 2005, 79th Leg., 2nd C.S., Ch. 1 (S.B. 7), Sec. 6, eff. November 18, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 22, eff. September 1, 2011.

TITLE 58. EXPRESS COMPANIES

Art. 3860. DECLARED COMMON CARRIERS. Each person, firm or corporation which shall do the business of an express company, upon railroads or otherwise, in this State, by the carrying of any kind of property, money, papers, packages or other things, are hereby declared to be common carriers, and shall receive, safely carry and promptly deliver at the express office nearest destination every such article as may be tendered to them, and in the carriage of which they are engaged. No such company shall be compelled to carry any gunpowder, dynamite, kerosene, naptha, gasoline, matches or other dangerous or inflammable oils, acids or materials, except under such regulations as may be prescribed by the Railroad Commission. No person, firm or corporation so engaged shall demand or receive for such services other than reasonable compensation.

Acts 1891, p. 48; G.L. vol. 10, p. 50.

Art. 3861. REGULATION. The Railroad Commission of Texas shall have power, and it shall be its duty, to fix and establish reasonable and just rates of charges for each class or kind of property, money, papers, packages and other things, to be received and charged for by each express company, and, which, by the contract of carriage, are to be transported by such express company between points wholly within this State. Such rates shall be made to apply to all such companies, and may be changed or modified by said Commission from time to time in such, manner as may become necessary. Said Commission shall have

the same power to make and prescribe such rules and regulations for the government and control of such express companies as is, or may be, conferred upon said Commission for the regulation of railroads.

Art. 3862. PENALTY FOR OVERCHARGE. Every express company doing business in this State which shall demand or receive a greater compensation than that which may be prescribed and fixed by said Commission for the transportation within this State of any class or kind of property, money, papers, packages or things, shall be deemed guilty of extortion, and shall forfeit and pay to the State of Texas a sum not to exceed five hundred dollars for each offense. If it shall appear that such violation was not wilful, said company shall have ten days to refund such overcharges or damages, in which case the penalty shall not be incurred. The said Commission shall have authority and it shall be its duty to sue for the same in such manner as may be prescribed by law for like suits against railroad companies.

Art. 3863. POWERS OF COMMISSION. The said Commission shall have authority, and it shall be its duty to call upon such express companies for reports, and investigate their books in the same manner as may be prescribed by law for the regulation of railroad companies, and the said Commission shall have power and authority to institute suits, sue out such writs and process as may be applicable and authorized for the regulation of railroad companies. All laws, rules and regulations made and prescribed for the government and control of railroads, when applicable, shall be of equal force and effect as to express companies.

Art. 3864. GENERAL OFFICE. Every incorporated express company doing business in this State shall keep a general office in this State at some place on the line of its transportation, in which it shall keep its charter, books, papers, accounts and contracts, or copies thereof, showing the value of its property of all kinds, its receipts and disbursements on account of business done in this State, and its indebtedness. It shall make a full annual statement of all such matters as shown by its books to the Railroad Commission of

Texas, and such additional statements as may be required by such Commission, which statements shall be certified to be correct and sworn to by the president and secretary, or general manager in Texas of such company. Such company shall permit any member of the Railroad Commission of Texas or its authorized agent to examine at any time, any and all books, papers and contracts in its said office.

Acts 1897, p. 14; G.L. vol. 10, p. 1068.

Art. 3865. TO GIVE NOTICE, ETC. Every express company doing business in this State shall give notice in writing to the Railroad Commission of the name, and official designation, of the person or persons, officer or officers charged with the management of its general office in this State, the location of its general office in this State, and shall from time to time give like notice in writing of any change in location of such general office, and of the person or persons, officer or officers in charge thereof.

Acts 1897, p. 14; G.L. vol. 10, p. 1068.

Art. 3866. PENALTY. Failure to comply with any provision of this title shall subject the offending company and any officer, agent, or employe thereof, so offending, to a penalty of not less than one hundred nor more than five hundred dollars, to be recovered by suit therefor. The Railroad Commission shall notify the Attorney General of any violation of any provision of this title which shall come to its knowledge. In addition to said penalty, a failure to comply with any provision of this title shall be sufficient cause to cancel the permit of any express company so offending.

Acts 1897, p. 14; G.L. vol. 10, p. 1068.

TITLE 66. FREE PASSES, FRANKS AND TRANSPORTATION

Art. 4005. FREE PASSES PROHIBITED. No steam or electric railway company, street railway company, interurban railway company or other chartered transportation company, express company, sleeping car company, telegraph company, telephone company or person or association of persons operating the same, nor any receiver or lessee

thereof, nor any officer, agent or employee or receiver of any such company in this State shall knowingly haul or carry any property free of charge, or give or grant to any person, firm or association of persons a free pass, frank, privilege or substitute for pay or a subterfuge which is used or which is given to be used instead of the regular fare or rate of transportation or any authority or permit whatsoever to travel or to pass or convey or transport any person or property free, nor sell any transportation for anything except money, or for any greater or less rate than is charged all persons under the same conditions, over any railway or transportation lines or part of line in this State; or shall knowingly permit any person to transmit any message free in this State; or shall give any frank or right or privilege to transmit any message free in this State or property free of charge or for greater or less fare or rate than is charged other persons in this State for similar service, except as hereinafter provided in this title.

Art. 4005a. FREE PASS LAW. Any president, director, officer, employé or agent of any steam or electric railway company, street railway company, interurban railway company, or other chartered transportation company, express company, sleeping car company, telegraph or telephone company, who shall sell any transportation for anything except money or knowingly give, grant, issue, or cause to be issued, a free pass, a frank, a privilege, or any substitute for, or in lieu thereof, for the transportation of any person, article or thing, or the sending or transmitting any messages over wire or other means of transmitting messages in this State, shall be fined not less than five hundred nor more than two thousand dollars, and may, in addition thereto, in the discretion of the jury, be confined in the penitentiary not less than six months nor more than two years.

Acts 1907, p. 93.

Art. 4006. EXCEPTIONS. The preceding Article shall not be held to prevent any steam or electric interurban railway, telegraph company, or chartered transportation company, or sleeping car company, or the receivers or lessees thereof, or persons operating same, or the officers, agents, or employees thereof, from granting or

exchanging free passes or free transportation, franks, privileges, substitutes for pay, or other thing prohibited by the provisions of the preceding Article to any of the following named persons: The actual bona fide employees of any such person or corporation, company, association, or the members of their families; persons actually employed on sleeping cars and express cars; newsboys employed on trains; railway mail service employees, and their families; furloughed, pensioned, superannuated employees, and members of their families; the widows of deceased former superannuated and/or pensioned employees; persons who have been disabled or who have become infirm in the service of any such corporation, company, association, or person; the remains of any persons killed or who may have died in the employment of a common carrier; members of the family of persons killed while in the service of any such common carrier; the family or any person who was, for a period of ten (10) years or more, an employee of such common carrier and who died while in the service of the same; ex-employees traveling for the purpose of entering the service of any such common carrier; post office inspectors; the chairman of bona fide members of grievance committees of employees; bona fide custom and immigration inspectors employed by the government; State Health Officer and one assistant; Federal health officers; county health officers; members of the Industrial Accident Board or any employee thereof; State Railroad Commissioners; Secretary of the Railroad Commission; Engineer of the Railroad Commission; Inspector of the Railroad Commission; Auditor of the Railroad Commission; State Game, Fish and Oyster Commissioners and the Executive Secretary and two (2) assistants; government representatives from the Texas fish hatcheries; shipments of fish for free distribution in the waters of this State; the necessary caretakers while en route and return of any shipments of live stock, poultry, fruit, melons, or other perishable produce; trip passes to indigent poor when application therefor is made by any religious or charitable organization; Sisters of Charity, or members of any religious society of like character; any Minister of religion on intrastate trips in this State; any citizen of the State who served in the War between the States of the Union, either on the Confederate side or on the Union side of said War; veterans of the Spanish-American War, and the wife or widow of any such citizen or veteran; veterans of the Texas Ranger force who served the State prior to the year 1900, and their

wives or widows; delegates to different farmers' institutes, farmers' congresses, and farmers' union; delegates to State and district firemen's conventions from volunteer fire companies; managers of Young Men's Christian Associations, or other eleemosynary institutions while engaged in charitable work; the officers or employees of industrial fairs; provided that no more than four (4) officers or employees of any one fair or fair association shall receive free passage in any one year; persons injured in wrecks upon the road of any such company immediately after such injury, and the physicians and nurses attending such persons at the time thereof; persons and property carried in cases of general epidemic, pestilence, or other calamitous visitation at the time thereof or immediately thereafter; United States Marshals and no more than two (2) of the deputies of each such Marshal; State Rangers; the Adjutant General and Assistant Adjutant General of this State; members of the State Militia in uniform and when called into the service of the State; Sheriffs and no more than two (2) of their deputies; Constables and no more than two (2) of their deputies; Chiefs of Police or city marshals, whether elected or appointed; members of the Livestock Sanitary Commission of Texas and their inspectors not to exceed twenty-five (25) in number for any one year; and any other bona fide peace officer when his duty is to execute criminal process; bona fide policemen or firemen in the service of any city or town in Texas when such policemen or firemen are in the discharge of their public duty; but this provision shall not be construed so as to apply to persons holding commissions as special policemen or firemen.

Amended by Acts 1939, 46th Leg., p. 334, Sec. 1; Acts 1941, 47th Leg., p. 15, ch. 8, Sec. 1.

Art. 4006a. EXCEPTIONS. The preceding article shall not apply in cases where the laws of this State provide that such companies as are referred to in said article, or the receivers or lessees thereof, or persons operating the same, or the officers, agents or employés thereof, may grant free passes, franks, privileges, or substitutes for pay to or for the persons, articles or things referred to and mentioned in said laws and said article.

Acts 1907, p. 94.

Art. 4006b. USING ANOTHER'S PASS. If any person shall present, or offer to use, in his own behalf, any permit or frank whatever, to travel, pass or to convey any person or property or message which has been issued to any other person, or shall, knowing that he is not entitled under the law, apply to any railway, express, telegraph or telephone company, officer, agent, lessee or receiver thereof, for any free pass, frank, privilege or a substitute for pay given or to be used instead of the regular fare or rate for transportation, or for any other consideration, except money, he shall be confined in jail not less than thirty days and not more than twelve months, and be fined not less than one hundred nor more than one thousand dollars.

Acts 1907, p. 95.

Art. 4006-A. FREE TRANSPORTATION TO INDIAN WAR VETERANS. Article 4005 shall not be held to prevent any railway company or other companies mentioned therein from granting free transportation, franks, privileges, or passes to Indian War Veterans, subject to the same limitations as apply to other Veterans provided in Article 4006.

Acts 1931, 42nd Leg., p. 335, ch. 202, Sec. 1.

Art. 4007. DEFINITIONS. The word "employee" as used in this title shall be held to include all officers, agents or employees, actually employed and engaged in the service of such corporation, company, association of persons, including its officers, bona fide ticket and freight agents, physicians, surgeons and general attorneys, and attorneys who appear in court to try cases and receive a reasonable annual salary therefor. The word "family" as used in this title shall include the wife, minor children and dependents of any such employé or person. The words "minister of religion" shall be construed to mean only those whose principal occupation is that of a minister of religion, priest or rabbi.

Art. 4008. SPECIAL RATES. Nothing in this title shall be held

to prevent any corporation, association or person mentioned in the first article of this title from granting transportation at the rate of one cent per mile to veterans mentioned in the preceding article, or their wives or widows; honorably discharged soldiers, sailors, marines and Red Cross nurses of the late world war to or from the annual convention, Department of Texas American Legion; any minister of religion for intrastate trips, or from granting to ministers of religion reduced rates of one-half the regular fare, or to prohibit the making of special rates for special occasions or under special conditions, provided authority therefor shall first be obtained from the Railroad Commission of Texas; or to prohibit transportation between points wholly within this State at the reduced rate of one cent per mile while traveling on official business connected with their respective offices, the following named peace officers, to wit: Adjutant General of this State; State rangers; the sheriff of any county, his deputies to be designated by him; constables; chiefs of police and assistant chiefs and captains; city marshals, chief of the detectives of any county or city, and assistant detectives.

Acts 1907, p. 94; Acts 1911, p. 151; Acts 1921, pp. 171, 191, 214; Acts 1923, p. 175; Acts 2nd C.S. 1923, p. 100.

Art. 4008a. AGED, BLIND OR DISABLED PERSONS; SPECIAL RATES. Transportation companies which operate in the municipalities of this state may set special reduced rates or fares for persons who are 60 years of age or older or who are blind or disabled.

Acts 1971, 62nd Leg., p. 88, ch. 50, Sec. 1, eff. April 6, 1971. Amended by Acts 1973, 63rd Leg., p. 758, ch. 333, Sec. 1, eff. June 12, 1973.

Art. 4008b. STREET RAILWAYS. All persons or corporations owning or operating street railways or motor buses in or upon the public streets of any city of not less than twenty thousand inhabitants are required:

1. To carry children of the age of twelve years or less for one-half the fare regularly collected for the transportation of adults.

2. To sell or provide for the sale of tickets in lots of twenty, each good for one trip over the line or lines owned or operated by

such person or corporation, for one-half the regular fare collected for the transportation of adults, to students in actual attendance upon any academic, public or private school of grades not higher than the grades of the public high schools situated within, or adjacent to the town or city in which such railway is located. Such tickets are required to be sold only upon the presentation by the student desiring to purchase them of the written certificate of the principal of the school which he attends showing that such student is in regular attendance upon such school and is within the grades herein provided. Such tickets are not required to be sold to such students and shall not be used except during the months when such schools are in actual session and such students shall be transported at half fare only when they present such tickets.

3. To transport, free of charge, children of the age of five years or less when attended by a passenger of above said age.

4. To accord to all passengers referred to in this Article the same rights as to the use of transfers issued by their own or other lines as are or may be accorded to passengers paying full fare.

Any such person or any officer or employee of any such corporation or other person who knowingly violates any provision of this Article, or any person who misrepresents the age or the grade of any person for the purpose of securing the reduced fare herein provided for, shall be fined not less than Twenty-five nor more than One Hundred Dollars.

Acts 1903, p. 132. Amended by Acts 1931, 42nd Leg., p. 828, ch. 343, Sec. 1.

Art. 4009. FREE TRANSPORTATION. Nothing in this title shall be construed to prohibit any express company from hauling or carrying free of charge any package or property of its actual bona fide officers, attorneys, agents and employees while in the service of such express company, nor to prevent any article being sent free to any orphan home or other charitable institution, nor to prohibit any telegraph or telephone company from transmitting free of charge any message of its bona fide officers, attorneys, agents or employees and their families while in the actual employment of such company or its receiver or lessee; provided the actual bona fide officers and employees upon annual salaries of railway telephone companies and

telegraph companies are hereby permitted to exchange frank privileges and free transportation over their respective lines of railway and telegraph or telephone.

Art. 4010. ADVERTISING. Nothing in this title shall be construed to prevent any of the parties named in the first article hereof, publishers, editors or proprietors of newspapers or magazines, from making an exchange of mileage for advertising space in such newspaper or magazine, provided the contract between the railway companies and publishers, editors or proprietors of such newspapers or magazines shall be at the same rate as is charged the public generally for like service, providing that such contract shall be in writing and shall not be operative until approved by the Railroad Commission of this State, and filed in the office of such Commission, subject at all times to a reasonable public inspection.

Art. 4011. DISCRIMINATION AS TO PERSONS. If any corporation, company, association, or person mentioned in Article 4005 shall grant to any sheriff, constable, or marshal a free pass over its lines of railroad, it shall issue like free transportation to each and every sheriff, constable, or marshal who may make application therefor.

Amended by Acts 1927, 40th Leg., 1st C.S., p. 239, ch. 87, Sec. 1.

Art. 4012. EVIDENCE OF AUTHORITY. Any veteran of any of the wars mentioned in this title, their wives, widows or members of their families, and any minister of religion, or any fireman, sister of charity or member of any religious society of like character, who desires to receive the benefits of free or reduced transportation as mentioned in this title shall present to the president, manager, officer, or person authorized to issue such transportation satisfactory evidence that he or she is entitled thereto, as herein provided. The officers entitled to the benefits of this law shall, when presenting themselves to the agent of any such railway or interurban railway company for the purchase of a ticket or to pay his fare, exhibit to such agent in case of the Adjutant General and State Rangers a certificate of the Secretary of State under the state seal,

in case of sheriffs and constables and their deputies a certificate under seal of the county judge of the county where they hold office and in case of officers of a city or town a certificate under seal of the mayor of such city or town stating that such person is entitled to the reduced fare herein provided for. Sheriffs and constables shall designate in writing the two deputies entitled to the reduced rates herein provided for. If the sheriff or constable has designated two deputies who are entitled to such reduced rates, then no deputy of such sheriff or constable shall be entitled to free transportation under the provisions of the pass laws of this State.

Acts 1921, p. 171.
Amended by Acts 1993, 73rd Leg., ch. 300, Sec. 17, eff. Aug. 30, 1993.

Art. 4013. DISCRIMINATION BY DEVICE. No corporation, company or person mentioned in the first article of this title shall directly or indirectly, by any special rate, rebate, drawback, or other device, demand, exchange, collect or receive from any person, firm, association or corporation a greater or less or different compensation for any service rendered or to be rendered, in the transportation of passengers, properties or messages, than it or he charges, demands, collects or receives from any other corporation, person, firm or association of persons doing business in this State for a like service under substantially similar circumstances and conditions except as is provided in this title, nor shall grant any free transportation or franking privilege to any corporation or person except as provided in this title.

Acts 1907, p. 96.

Art. 4013a. DISCRIMINATION BY DEVICE. No steam or electric railway company, street railway company, interurban railway company, or other chartered transportation company, express company, sleeping car company, telegraph or telephone company, shall directly or indirectly, by any special rate, rebate, drawback, or other device or exchange, demand, charge or collect or receive from any person, firm, association of persons or corporation a greater or less or different compensation for any service rendered, or to be rendered, in the

transportation of passengers, property or messages, than it charges, demands, collects or receives from any other person, firm, association of persons or corporation for doing for him, them or it, a like service, if the transportation or transmission is a like kind of traffic or service under substantially similar circumstances and conditions.

Acts 1907, p. 96.

Art. 4014. REPORTS, ETC. Each corporation, company or persons subject to the provisions of this title shall, as and when requested by the Railroad Commission of Texas, furnish said Commission with any and all information which may at any time be requested by said Commission relating to free transportation or right thereto which has been given to travel, or to have property or messages transported or transmitted, free over the lines of any such corporation, company or person, and if requested by said Commission to give the name and address of such person or persons to whom said rights have been granted, either free or at a reduced rate; any corporation, company or person, who shall fail or refuse to comply with the request of the Railroad Commission of Texas, under the provisions of this Act, shall, for each such failure and refusal, be subject to a penalty not exceeding One Thousand ($1,000.00) Dollars, to recover which suit shall be brought by the Attorney General of Texas under the direction of the Railroad Commission; provided, however, that each such corporation, company or person, who complies with the provisions of this Act, from and after January 1, 1931, shall not be required to furnish the reports provided for under Article 4014, Revised Civil Statutes of 1925, which is hereby amended.

Amended by Acts 1931, 42nd Leg., p. 261, ch. 156, Sec. 1.

Art. 4015. PENALTY. Any corporation, company, association of persons or any person named in the first article of this title violating any provision of this title, except Article 4014, shall forfeit and pay to the State of Texas a penalty of five thousand dollars for each violation, to be recovered in suit by the State, brought by the Attorney General or by any county or district attorney under the direction of the Attorney General.

Art. 4015a. UNLAWFULLY USING FREE PASS. Any person, other than the persons excepted by law, who uses such free ticket, free pass or free transportation, frank or privilege over any railway or other transportation line or sleeping or express car, telegraph or telephone line mentioned in the preceding articles of this chapter, for any distance under the control and operation of either of said companies or under their authority, or shall knowingly or wilfully by any means or device whatsoever obtain, use or enjoy from any such company a less fare or rate than is charged, demanded, collected or received by any such company from any other person, firm, association of persons or corporations for doing for him, them or it, a like service, if the transportation or service is of a like kind of traffic or service under substantially similar circumstances and conditions, such person or such officer or agent who acts for such corporation or company thus favored, shall be fined not less than one hundred nor more than one thousand dollars.

Acts 1907, p. 96.

Art. 4015b. EVADING LAW. Any director, officer, agent or any receiver, trustee, lessee or person acting for, or employed by, any company subject to the provisions of the preceding articles of this chapter, who alone, or with any other corporation, company, persons or party, shall wilfully do, or cause to be done, or shall wilfully suffer, or permit to be done, any act, matter or thing in said articles prohibited, or who shall aid or abet therein, or shall wilfully omit or fail to do any act, matter or thing in this Act required to be done, or shall cause or wilfully suffer or permit any act, matter or thing so directed, required by said articles to be done, not to be done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of said articles, or shall aid or abet therein, shall be fined not less than one hundred nor more than one thousand dollars; and, if the offense for which any person shall be convicted under this article shall be unlawful discrimination in rates, fares or charges for the transportation of passengers or property, or the transmission of messages, such person may, in addition to the fines hereinbefore provided for, at the

discretion of the jury, be imprisoned in the penitentiary for not less than six months nor more than two years.

Acts 1907, p. 96.

Art. 4015c. MAY BE COMPELLED TO TESTIFY. In any investigation or prosecution under any provision of this chapter, the court or tribunal in which the same is pending may compel any person to attend and give testimony, and to produce such papers, books and documents as may be desired by the State. No person shall be exempt from giving testimony therein, but no criminal action or proceeding shall be brought or prosecuted against such witness on account of any testimony so given or furnished by him.

Acts 1907, p. 97.

Art. 4015d. REDUCED RATE FOR OFFICERS. Any steam railroad company or any electric interurban railroad company or any person or persons operating the same, or any receiver or receivers, or lessee or lessees thereof, shall be permitted to transport between points wholly within this State at the reduced rate of one cent per mile, while traveling on official business connected with their respective offices, the following named peace officers, to-wit: the Adjutant General; State Rangers; the sheriff of any county, his deputies to be designated by him; constables; chiefs of police and assistant chiefs and captains; city marshals, chief of the detectives of any county or city, and assistant detectives. Any such peace officer who shall procure transportation over any such railroad between points in this State under the provisions of this article and shall use the same for any other than official business connected with the duties of his office, or any person not entitled to the benefits of this law who shall falsely represent himself as entitled to such privileges and shall purchase or offer to purchase transportation over any such railroad company at the rate provided for herein, shall be fined not less than one hundred nor more than five hundred dollars, or be imprisoned in jail not exceeding six months, or both.

Acts 1921, p. 171.

Art. 4015e. COLLECTING FARE FROM STATE OR POLITICAL SUBDIVISION BY OFFICER OR EMPLOYEE USING FREE PASS.

Sec. 1. No officer or employee of the State of Texas, any county, city, town, or village, or of any municipality or political subdivision, using or accepting the benefits of any free pass or franking privilege of any railroad, interurban, motor bus or other transportation line, shall charge, or collect from the State of Texas, or from any county, city, town, village, municipality or political subdivision, the fare or charge which, otherwise, he would have paid to such railroad, interurban, motor bus or other transportation line, by reason of the trip for which such free pass or frank was used.

Sec. 2. Any officer or employee violating any provision of this Act shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding One Thousand ($1,000.00) Dollars.

Acts 1931, 42nd Leg., p. 267, ch. 161.

Art. 4015f. PREFERENCE IN TRANSPORTATION. By the word "preference" as used in this article is meant any advantage, privilege, right, opportunity, precedence, choice, favor, priority, or gain that is or may be, or is sought or purposed to be accorded, granted, given, allowed, permitted or extended to any person, place, or thing, as against any other person, place, or thing in the receipt, carriage, transportation, movement, placing, storing, handling, caring for or delivery of any freight, commodity or article, or any railroad car or by any common carrier in this State, or any agent or employé thereof. Any person who shall ask, solicit, demand, or receive, directly or indirectly, from any person, corporate or otherwise, any money, reward, favor, benefit, or other thing of value, or the promise of either, as a consideration for procuring or effecting, or with the intent of the person asking, soliciting, demanding, charging or receiving the same, or the promise thereof, that such person can or will, seek or undertake to procure or effect any preference in the receipt, carriage, transportation, storing, movement, placing, handling, caring for, or delivery of any freight, commodity or article, or any railroad car by any common carrier in this State or any agent or employé thereof, shall be fined not less than one hundred nor more than one thousand dollars and be

imprisoned in jail not less than thirty days nor more than six months.

Acts 1921, p. 34.

Art. 4015g. SUITS FOR PENALTY. (a) A suit brought under this title for recovery of penalties may be brought in any county in which:

(1) a violation of this title is committed;

(2) the company or receiver has an agent or representative; or

(3) the principal office of the company is located, or in which a receiver resides.

(b) Of money collected from a penalty in this title:

(1) half, less the commission and expenses allowed by law, shall be deposited in the state treasury; and

(2) the remainder shall be paid into the jury fund of the county in which the suit may be maintained.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.07, eff. April 1, 2011.

TITLE 70. HEADS OF DEPARTMENTS
CHAPTER 4. STATE-FEDERAL RELATIONS
CHAPTER 7. INTERGOVERNMENTAL COOPERATION
CHAPTER 9. COMMISSIONS AND AGENCIES

Art. 4413(47e-1). SUPERCONDUCTING SUPER COLLIDER FACILITY; ACTIVITIES NEAR SITE.

Sec. 1. DEFINITIONS. In this Act:

(1) "Interaction region of the super collider" means an area above, below, or adjacent to a tunnel or other improvement used in any way with the super collider or an area designated by the United States Department of Energy as an interaction region of the super collider.

(2) "Super collider" means the superconducting super collider scientific project constructed and operated in Ellis County.

Sec. 2. PROHIBITED ACTIVITIES. A person may not conduct blasting, rock quarry operations, or another activity that causes

ground motion in excess of one micron in frequencies of five hertz or less as measured at an interaction region of the super collider.

Sec. 3. INJUNCTION. The United States Department of Energy may bring an action to enjoin a violation of this Act.

Sec. 4. PENALTIES. (a) A person who violates this Act commits an offense.

(b) An offense under this section is punishable by a fine of not less than $100 or more than $1,000, confinement in jail for not more than one year, or both.

Acts 1993, 73rd Leg., ch. 281, Sec. 1 to 4, eff. Sept. 1, 1993.

TITLE 71. HEALTH--PUBLIC
CHAPTER 1. HEALTH BOARDS AND LAWS
CHAPTER 4A. SANITATION AND HEALTH PROTECTION

Art. 4477-7j. GAINES COUNTY SOLID WASTE MANAGEMENT ACT.

ARTICLE 1. GENERAL PROVISIONS

Sec. 1.01. PURPOSE. The purpose of this Act is to establish an instrumentality to develop and carry out for Gaines County a regional water quality protection program through solid waste management and regulation of waste disposal in accordance with state law.

Sec. 1.02. FINDINGS AND DECLARATION OF POLICY. (a) The legislature finds that:

(1) the quality of water in Gaines County may be materially affected by the management of solid waste throughout the county;

(2) a countywide or regional effort to provide for the management of solid waste in accordance with state and federal law is far more effective than each incorporated or unincorporated community providing solid waste management services;

(3) solid waste, as well as other waste, may impair water quality by seepage or drainage; and

(4) creation of the Gaines County Solid Waste Management District would advance the established policy of this state to maintain the quality of the water in the state consistent with:

(A) the public health and public enjoyment;

(B) the propagation and protection of terrestrial and aquatic life;

(C) the operation of existing industries; and

(D) the economic development of the state.

(b) The legislature finds that this Act is in compliance with Article XVI, Sections 59(d) and (e), of the Texas Constitution and that the legislature has the power and authority to enact this Act.

(c) The legislature finds that all of the area included in the district is benefited by the exercise of the power conferred by this Act.

Sec. 1.03. DEFINITIONS. In this Act:

(1) "Board" means the board of directors of the district.

(2) "Commission" means the Texas Water Commission.

(3) "County" means Gaines County, Texas.

(4) "Department" means the Texas Department of Health.

(5) "Director" means a member of the board.

(6) "District" means the Gaines County Solid Waste Management District created under this Act.

(7) "Industrial solid waste" has the meaning assigned by Section 361.003, Health and Safety Code.

(8) "Local government" means an incorporated municipality, a county, or a water or other special district or authority acting under Article III, Sections 52(b)(1) and (2), or Article XVI, Section 59, of the Texas Constitution.

(9) "Municipal solid waste" has the meaning assigned by Section 361.003, Health and Safety Code.

(10) "Outside the district" means the area contained in counties adjacent to the district.

(11) "Person" means an individual, public or private corporation, political subdivision, governmental agency, municipality, copartnership, association, firm, trust, estate, or any other legal entity.

(12) "Resource recovery facility" means a facility used to store, handle, sort, bail, recycle, process, and recover solid waste.

(13) "Rule" includes regulation.

(14) "Sewage" has the meaning assigned by Section 366.002, Health and Safety Code.

(15) "Solid waste" has the meaning assigned by Section 361.003, Health and Safety Code.

(16) "Solid waste management system" means a system for controlling all aspects of the collection, handling, transportation, processing, recovery, and disposal of solid waste.

(17) "Water" means groundwater, percolating or otherwise, lakes, bays, ponds, springs, rivers, streams, creeks, and all other bodies

of surface water, natural or artificial, that are wholly or partially within the district.

(18) "Water pollution" means the alteration of the physical, chemical, or biological quality of or the contamination of water that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety, or welfare, or that impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

ARTICLE 2. CREATION OF DISTRICT; INITIAL APPOINTMENT OF BOARD

Sec. 2.01. CREATION OF DISTRICT. Pursuant to Article XVI, Section 59, of the Texas Constitution, a conservation and reclamation district to be known as the Gaines County Solid Waste Management District is created as a governmental agency and body politic and corporate of the state.

Sec. 2.02. DESCRIPTION. The district's territory consists of the area within the boundaries of Gaines County.

Sec. 2.03. APPOINTMENT OF INITIAL DIRECTORS. (a) On or after the effective date of this Act, the Commissioners Court of Gaines County shall appoint three persons, the governing body of the city of Seminole shall appoint two persons, and the governing body of the city of Seagraves shall appoint two persons to serve as initial directors of the district. The four persons appointed by the governing bodies of the cities of Seminole and Seagraves shall represent the municipalities within the county, and the three persons appointed by the Commissioners Court of Gaines County shall represent the unincorporated areas of the county.

(b) A vacancy on the initial board shall be filled in the same manner as the original appointment for the unexpired term.

(c) The Commissioners Court of Gaines County and the governing bodies of the cities of Seminole and Seagraves shall each appoint one initial director to serve a term expiring on May 1 of the first year after the year in which the original appointment is made. In addition, the Commissioners Court of Gaines County shall appoint two initial directors and the governing bodies of the cities of Seminole and Seagraves shall each appoint one initial director to serve terms expiring on May 1 of the second year after the year in which the original appointment is made. Successor directors serve two-year terms.

Sec. 2.04. CONFIRMATION AND TAX ELECTION. The directors shall call and hold an election within the boundaries of the proposed

district to determine if the proposed district will be created and a tax authorized.

Sec. 2.05. NOTICE OF ELECTION. (a) Notice of the confirmation and tax election shall state the day and places for holding the election, the proposition to be voted on, and list the appointed directors.

(b) The board shall publish the notice of the election one time in one or more newspapers of general circulation in the proposed district. The notice must be published before the 35th day before the date set for the election.

Sec. 2.06. BALLOT PROPOSITION. The ballot shall be printed to permit voting for or against the proposition: "The creation of the Gaines County Solid Waste Management District and the levy of a maintenance and operating tax in an amount not to exceed five cents on each $100 valuation." The ballot shall include the names of the persons appointed as directors for the district.

Sec. 2.07. CANVASSING RETURNS. (a) Immediately after the confirmation and tax election, the presiding judge of each polling place shall deliver returns of the election to the board, and the board shall canvass the returns and declare the result.

(b) If a majority of the votes cast at the election favor creation of the district, the board shall declare the district created and shall enter the results in its minutes. If a majority of the votes cast at the election are against the creation of the district, the board shall declare that the creation of the district was defeated and shall enter the results in its minutes. The board shall file a copy of the election results with the commission.

(c) If a majority of the voters at the election vote against the creation of the district, the board may call and hold additional confirmation and tax elections, but another election to confirm creation of the district may not be called and held by the board before the first anniversary of the most recent confirmation and tax election. If the creation of the district is not confirmed on or before the fifth anniversary of the effective date of this Act, this Act expires.

Sec. 2.08. BOND PROPOSITION AT CREATION ELECTION. At an election to confirm creation of the district and authorize the levy of taxes, the board may include a separate proposition on the ballot to approve the issuance by the district of bonds payable wholly or partially from property taxes. The notice of the election under

Section 2.05 of this Act must state the bond proposition that is to appear on the ballot. The ballot shall be printed to permit voting for or against the proposition: "The issuance of bonds in the amount of $_____ payable wholly (or partially) from property taxes for (STATE PURPOSE FOR WHICH BOND PROCEEDS TO BE USED) and the levy of taxes in payment of those bonds." If a majority of the voters at the election approve the bond proposition, the board shall declare the result and enter it in its minutes, and the district, if its creation is confirmed, may issue the bonds in the amount authorized for the purpose authorized and may levy and collect taxes necessary to pay the principal of and interest on the bonds. If a majority of the voters at the election do not approve the bond proposition, the temporary board shall declare the result and enter it in its minutes, and the district, if its creation is confirmed, may not issue the bonds payable in whole or in part by property taxes. The board shall file a copy of the bond election results with the commission.

ARTICLE 3. DISTRICT ADMINISTRATION

Sec. 3.01. BOARD OF DIRECTORS. (a) The district is governed by a board of directors composed of seven voting members who are appointed as provided by this Act. However, the district shall change to a system of electing the voting directors if:

(1) the Commissioners Court of Gaines County and the governing bodies of the cities of Seminole and Seagraves each pass a resolution calling for the election of the directors; or

(2) the board receives a petition signed by at least 150 registered voters of Gaines County calling for the election of the directors.

(b) If the resolution is passed or the petition presented to the board as provided by Subsection (a) of this section, a directors' election shall be held on the first Saturday in May that occurs after the resolution is passed or the petition presented. The board by order may postpone the election date for one year if:

(1) the election will occur within 60 days after the date the resolution is passed or the petition is presented; or

(2) the board determines that there is not sufficient time to comply with the requirements of law and to order the election.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1049, Sec. 9.01(a)(12), eff. September 1, 2011.

Sec. 3.02. METHOD OF ELECTION. (a) If directors are elected, one director shall be elected from each commissioner precinct and

three directors shall be elected from the district at large.

(b) At the initial election of directors, the candidate receiving the highest number of votes from a commissioner precinct is the director for that precinct, and the three candidates receiving the highest number of votes from the district at large are the directors for the district at large. If two or more persons tie for the third-highest vote, the Commissioners Court of Gaines County shall select the third member from those trying for the place.

(c) The candidates elected from the odd-numbered precincts and the two candidates elected from the district at large who receive the highest number of votes at the initial election serve for a term of two years. The candidates elected from the even-numbered precincts and the candidate elected from the district at large who receives the third-highest number of votes at that election serve for a term of one year.

(d) After the initial election of directors, an election shall be held on the first Saturday in May each year and the appropriate number of successor directors shall be elected for two-year terms.

Sec. 3.03. QUALIFICATIONS FOR OFFICE. (a) To be eligible to be appointed as, to be a candidate for, or to serve as a voting director, a person must be:

(1) a resident of the district; and

(2) a qualified voter.

(b) In addition to the qualifications required by Subsection (a) of this section, a person who is elected from a commissioner precinct or who is appointed to fill a vacancy for a commissioner precinct must be a resident of that commissioner precinct.

(c) Each voting director must execute a bond in the amount of $5,000 with a corporate surety authorized to do business in this state and conditioned on the faithful performance of the director's duties.

Sec. 3.04. APPLICATION FOR ELECTION. (a) A person who wishes to have the person's name printed on the ballot at a directors' election as a candidate for director shall file an application with the secretary of the district.

(b) The application must specify the commissioner precinct the candidate wishes to represent or specify that the candidate wishes to represent the district at large.

Sec. 3.05. BEGINNING OF DIRECTOR'S TERM. A director shall take office at the first regular meeting of the board in May following the

director's appointment or election and qualification.

Sec. 3.06. VACANCY ON BOARD. (a) If the directors are appointed, a vacancy on the board shall be filled in the same manner as the original appointment for the unexpired term.

(b) If the directors are elected, the vacancy of an elected director's position on the board shall be filled by appointment of the remaining members of the board until the next election of directors for the district. If that position is not scheduled to be filled at that election, the person elected to fill the position serves only for the remainder of the unexpired term.

Sec. 3.07. OATH. Each director shall file the statement and take the constitutional oath of office required of state officers.

Sec. 3.08. ORGANIZATION OF BOARD. (a) After each annual appointment or election of directors, the board shall hold a regular meeting in May at the district office and shall organize by electing from the members of the board one person to serve as chairman, one person to serve as vice-chairman, and one person to serve as secretary.

(b) A person selected to serve as chairman, vice-chairman, or secretary serves in that capacity for a term of one year.

(c) The chairman shall preside over meetings of the board, and in the chairman's absence the vice-chairman shall preside.

(d) The chairman, vice-chairman, and secretary shall perform the duties and may exercise the powers specifically given them by this Act or by orders of the board.

Sec. 3.09. MEETING AND ACTIONS OF THE BOARD. (a) The board shall meet at least one time each month and may meet at any other time.

(b) A majority of the voting members of the board constitute a quorum for the transaction of business of the district.

(c) Except as otherwise provided by this Act, the vote of a majority of the voting directors is required for board action.

(d) The board shall adopt bylaws at its first meeting or as soon after the first meeting as practicable. The board's bylaws must prescribe the powers, duties, and procedures for removal from a board office.

Sec. 3.10. OTHER OFFICERS. (a) The board may appoint a treasurer and an attorney for the district.

(b) The persons appointed under this section are entitled to the compensation provided by the district's budget.

(c) The person appointed as treasurer shall execute a bond in the amount determined by the board, payable to the district, conditioned on the faithful performance of the treasurer's duties. The district shall pay for the bond.

Sec. 3.11. INTEREST IN CONTRACT. A director who is financially interested in a contract to be executed by the district for the purchase of property or the construction of facilities shall disclose that fact to the other directors and may not vote on the acceptance of the contract.

Sec. 3.12. DIRECTOR'S COMPENSATION. (a) A director is entitled to receive $25 a day and reimbursement for actual and necessary expenses incurred:

(1) for each day the director attends meetings of the board; and

(2) for each day the director attends to the business of the district that is authorized by board resolution or motion.

(b) A director is not entitled to receive a per diem allowance for more than 30 days in any one calendar year.

Sec. 3.13. GENERAL MANAGER; PERSONNEL. (a) The board may employ a general manager for a term and salary set by the board.

(b) The general manager is the chief executive officer of the district. Under policies established by the board, the general manager is responsible to the board for:

(1) administering the directives of the board;

(2) keeping the district's records, including minutes of the board's meetings;

(3) coordinating with state, federal, and local agencies;

(4) developing plans and programs for the board's approval;

(5) hiring, supervising, training, and discharging district employees;

(6) contracting for or retaining technical, scientific, legal, fiscal, and other professional services; and

(7) performing any other duty assigned to the general manager by the board.

(c) The board may discharge the general manager on a majority vote of all of the voting directors.

Sec. 3.14. DIRECTOR'S AND EMPLOYEE'S BONDS. (a) The general manager and each employee of the district charged with the collection, custody, or payment of any money of the district shall execute a fidelity bond. The board shall approve the form, amount,

and surety of the bond.

(b) The district shall pay the premiums on the employees' bonds under this section.

Sec. 3.15. PRINCIPAL OFFICE. The district shall maintain its principal office inside the district's boundaries.

Sec. 3.16. RECORDS. (a) The district shall keep complete and accurate accounts of its business transactions in accordance with generally accepted methods of accounting.

(b) The district shall keep complete and accurate minutes of its meetings.

(c) The district shall maintain its accounts, contracts, documents, minutes, and other records at its principal office.

(d) Neither the board nor its employees may disclose a district record that relates to trade secrets or the economics of an industry's operations.

Sec. 3.17. CONTRACTS. The board may enter into contracts for administration or services as provided by this Act, and those contracts shall be executed by the board in the name of the district.

Sec. 3.18. SUPERVISION OF DISTRICT. The district is subject to the continuing right of supervision by the state, in accordance with state law.

Sec. 3.19. SUITS; PAYMENT OF JUDGMENTS. (a) The district may, through its board, sue and be sued in any court of this state in the name of the district. Service of process in a suit may be had by serving the general manager or other officers appointed by the board.

(b) The courts of this state shall take judicial notice of the creation of the district.

(c) A court of this state that renders a money judgment against the district may require the board to pay the judgment from money in the district depository that is not dedicated to the payment of any indebtedness of the district.

Sec. 3.20. SEAL. The board shall adopt a seal for the district and may alter the form of the seal from time to time.

ARTICLE 4. DISTRICT POWERS AND DUTIES

Sec. 4.01. GENERAL POWERS AND DUTIES. (a) The district shall administer and enforce this Act and shall use its facilities and powers to accomplish the purposes of this Act.

(b) After notice and hearing, the board may adopt rules necessary to carry out this Act. The board shall adopt rules providing procedures for giving notice and holding hearings.

(c) The district shall prepare and adopt plans for and shall purchase, obtain permits for, construct, acquire, own, operate, maintain, repair, improve, and extend inside and outside the boundaries of the district any works, improvements, landfills, recycling facilities, waste-to-energy facilities, composting facilities, transfer stations, storage sites, and other facilities, plants, pipelines, equipment, and appliances necessary to transport, process, dispose of, and control solid waste and to protect groundwater within the district in accordance with state law.

(d) The district shall acquire all permits required by state law that are necessary to carry out this article.

(e) The district may conduct studies and research for the disposal of solid waste and the protection of water within the district.

(f) The regulatory powers of the district under this Act extend to every person within the district.

(g) Except as expressly limited by this Act, the district has all powers, rights, and privileges necessary and convenient for accomplishing the purposes of this Act conferred by general law on a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution.

(h) Subject only to the authority vested in other entities by general law, including those vested in the commission by Chapter 26, Water Code, and those vested in the department by Chapter 361, Health and Safety Code, the district may control water pollution within the district.

(i) The powers granted to the district by this Act are cumulative of all powers granted by other laws that are by their terms applicable to the district.

(j) The district may not provide solid waste collection services without an interlocal agreement approved by the county, the city of Seminole, and the city of Seagraves. However, the district shall purchase equipment, facilities, containers, and other necessary items for collection services if the district adopts a recycling program.

(k) The district may not contract with a person outside the boundaries of the district to provide to that person solid waste management services or any other service authorized under this Act.

Sec. 4.02. GIFTS, GRANTS, LOANS, AND OTHER FUNDS. To carry out any purposes or powers under this Act, the district may apply for, accept, receive, and administer gifts, grants, loans, and other funds

available from any source.

Sec. 4.03. CONSULTATION, CONTRACTS, AND COOPERATION WITH OTHER GOVERNMENTAL AGENCIES AND ENTITIES. To carry out any purposes or powers under this Act, the district may advise, consult, contract, and cooperate with the federal government and its agencies, the state and its agencies, local governments, and private entities.

Sec. 4.04. ACQUISITION OF PROPERTY. The district may acquire by gift, grant, devise, purchase, or lease any land, easements, rights-of-way, and other property interests inside the district necessary to carry out the powers and duties provided by this Act.

Sec. 4.05. EMINENT DOMAIN. (a) The district may acquire land within the district for the purposes authorized by Section 4.01(c) of this Act by condemnation if the board determines, after notice and hearing, that it is necessary.

(b) The district must exercise the power of eminent domain in the manner provided by Chapter 21, Property Code, but the district is not required to:

(1) deposit in the trial court money or a bond as provided by Section 21.021(a), Property Code;

(2) pay in advance or give bond or other security for costs in the trial court;

(3) give bond for the issuance of a temporary restraining order or a temporary injunction; or

(4) give bond for costs or supersedeas on an appeal or writ of error.

(c) If the district, in the exercise of the power of eminent domain, requires relocating, raising, lowering, rerouting, changing the grade, or altering the construction of any railroad, highway, pipeline, or electric transmission and electric distribution, telegraph or telephone lines, conduits, poles or facilities, the district must bear the actual cost of relocating, raising, lowering, rerouting, changing the grade, or altering the construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

Sec. 4.06. AUTHORITY TO ENTER INTO CONSTRUCTION, RENOVATION, AND REPAIR CONTRACTS. The district may contract with any person to construct, renovate, or repair any of its works, improvements, or facilities, or other plants, pipelines, equipment, and appliances and, from time to time, make improvements to them.

Sec. 4.07. BIDS ON CONTRACTS. Contracts entered into under

Section 4.06 of this Act requiring an expenditure of more than $15,000 may be made only after competitive bidding as provided by Subchapter B, Chapter 271, Local Government Code.

Sec. 4.08. ATTACHMENTS TO CONTRACTS. A contract entered into under Section 4.06 of this Act must contain, or have attached to it, the specifications, plans, and details for work included in the contract, and work shall be done according to those plans and specifications under the supervision of the district.

Sec. 4.09. EXECUTION AND AVAILABILITY OF CONTRACTS. (a) A contract entered into under Section 4.06 of this Act must be in writing and signed by the contractor and a representative of the district designated by the board.

(b) The contract shall be kept in the district's office and must be available for public inspection.

Sec. 4.10. CONTRACTOR'S BOND. (a) A contractor shall execute a bond in an amount determined by the board, not to exceed the contract price, payable to the district and approved by the board, conditioned on the faithful performance of the obligations, agreements, and covenants of the contract.

(b) The bond must provide that if the contractor defaults on the contract, the contractor will pay to the district all damages sustained as a result of the default. The bond shall be deposited in the district's depository, and a copy of the bond shall be kept in the district's office.

Sec. 4.11. MONITORING WORK. (a) The board has control of construction, renovation, or repairs being done for the district under a contract entered into under Section 4.06 of this Act and shall determine whether or not the contract is being fulfilled.

(b) The board shall have the construction, renovation, or repair work inspected by engineers, inspectors, and personnel of the district.

(c) During the progress of the work, the engineers, inspectors, and personnel doing the inspections shall submit to the board written reports that show whether or not the contractor is complying with the contract.

(d) On completion of construction, renovation, or repair work, the engineers, inspectors, and personnel shall submit to the board a final detailed written report including information necessary to show whether or not the contractor has fully complied with the contract.

Sec. 4.12. PAYMENT FOR WORK. (a) The district shall pay the

contract price of construction, renovation, or repair contracts in accordance with this section.

(b) The district shall make progress payments under contracts monthly as the work proceeds or at more frequent intervals as determined by the board.

(c) If requested by the board, the contractor shall furnish an analysis of the total contract price showing the amount included for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments.

(d) In making progress payments, 10 percent of the estimated amount shall be retained until final completion and acceptance of the contract work. However, if the board, at any time after 50 percent of the work has been completed, finds that satisfactory progress is being made, it may authorize any of the remaining progress payments to be made in full. Also, if the work is substantially complete, the board, if it finds the amount retained to be in excess of the amount adequate for the protection of the district, may release to the contractor all or a portion of the excess amount.

(e) On completion and acceptance of each separate project, work, or other division of the contract, on which the price is stated separately in the contract, payment may be made without retention of a percentage.

(f) When work is completed according to the terms of the contract, the board shall draw a warrant on the depository to pay any balance due on the contract.

Sec. 4.13. CONTRACTS FOR PURCHASE OF VEHICLES, EQUIPMENT, AND SUPPLIES OVER $15,000. (a) If the estimated amount of a proposed contract for the purchase of vehicles, equipment, or supplies is more than $15,000, the board shall ask for competitive bids as provided by Section 4.07 of this Act.

(b) This section does not apply to purchase of property from public agencies or to contracts for personal or professional services.

Sec. 4.14. ENTRY ON LAND. (a) The directors, the engineer, and the employees of the district may go on any land inside or outside the boundaries of the district to make surveys and examine the land with reference to the location of works, improvements, and waste disposal, treatment, and other facilities, plants, pipelines, equipment, and appliances and to attend to business of the district.

(b) Before a director, engineer, or employee enters on the land,

the landowner must grant written permission or five days' written notice must be given to the landowner.

(c) If any activities of the district on the land cause damages to the land or property, the land or property shall be restored as nearly as possible to its original state. The district shall pay the cost of the restoration.

Sec. 4.15. RIGHT TO USE ROAD RIGHT-OF-WAY. (a) The district has a right-of-way along and across all public state or county roads or highways; provided that a governmental entity having jurisdiction of such right-of-way may designate the place upon the right-of-way the facilities of the district shall be installed and may require the relocation of the facilities of the district to accommodate any widening or changing of traffic lanes.

(b) The district may not proceed with any action to change, alter, or damage facilities or property of the state without having first obtained the written consent of the governmental entity having control and jurisdiction of such facilities or property.

Sec. 4.16. FEES AND CHARGES. (a) The board may adopt and enforce all necessary charges, fees, or rentals, in addition to taxes, for providing any district facilities or services.

(b) The board may require a deposit for any services or facilities furnished and may or may not provide that the deposit will bear interest. The interest, if any, may accrue to the deposit or be used to offset amounts due.

(c) The board may discontinue a facility or service to prevent an abuse or enforce payment of an unpaid charge, fee, or rental due the district, including taxes that have been due for not less than six months.

Sec. 4.17. ACQUISITION OF EXISTING FACILITIES. If the district acquires existing works, improvements, facilities, plants, pipelines, equipment, and appliances that are completed, partially completed, or under construction, the district may assume the contracts and obligations of the previous owner and perform the obligations of the previous owner in the same manner and to the same extent that any other purchaser or assignee would be bound.

Sec. 4.18. SOLID WASTE RESOURCE RECOVERY FACILITIES. The district may construct or acquire and operate solid waste resource recovery facilities inside the district.

Sec. 4.19. REGULATION OF SOLID WASTE MANAGEMENT. The district shall comply with all standards, laws, and rules relating to the

operation for all aspects of solid waste handling, including storage, collection, recycling, incineration, sanitary landfill, or composting.

Sec. 4.20. ON-SITE SEWAGE DISPOSAL SYSTEMS. (a) The district may apply to the department for designation as an authorized agent to implement and enforce on-site sewage disposal rules under Chapter 366, Health and Safety Code.

(b) If the district finds that due to the nature of the soil or drainage in the area it is necessary to prevent water pollution that may injure the public health, the district by rule may:

(1) provide limits on the number and kind of septic tanks in an area defined by the rule;

(2) prohibit the use of septic tanks in the area; or

(3) prohibit the installation of new septic tanks in the area.

(c) The board shall consult the department and the commission before the adoption of a rule under Subsection (b) of this section.

(d) The board may not issue a rule under Subsection (b) of this section without first holding a public hearing in the area to be affected by the rule.

Sec. 4.21. SOLID WASTE MANAGEMENT CONTRACTS. (a) Unless otherwise provided by this Act, the district may contract to provide solid waste management services inside the district.

(b) The district shall set fees in a contract under Subsection (a) of this section after considering:

(1) the quality of the waste;

(2) the quantity of the waste;

(3) the difficulty encountered in treating or disposing of the waste;

(4) operation and maintenance expenses and debt retirement services; and

(5) any other reasonable considerations.

Sec. 4.22. AREAWIDE WASTE TREATMENT. The powers and duties conferred on the district are granted subject to the state policy to encourage the development and use of regional and integrated solid waste management systems to serve the needs of the citizens of the state.

ARTICLE 5. DISTRICT FINANCES

Sec. 5.01. FISCAL YEAR. (a) The district operates on the fiscal year established by the board.

(b) The fiscal year may not be changed more than once in a 24-

month period.

Sec. 5.02. ANNUAL AUDIT. Annually, the board shall have an audit made of the financial condition of the district.

Sec. 5.03. ANNUAL BUDGET. (a) The board shall prepare and approve an annual budget for the district.

(b) The budget shall contain a complete financial statement, including a statement of:

(1) the outstanding obligations of the district;

(2) the amount of cash on hand to the credit of each fund of the district;

(3) the amount of money received by the district from all sources during the previous year;

(4) the amount of money available to the district from all sources during the ensuing year;

(5) the amount of the balances expected at the end of the year in which the budget is being prepared;

(6) the estimated amount of revenues and balances available to cover the proposed budget; and

(7) the estimated tax rate that will be required.

Sec. 5.04. AMENDING BUDGET. After adoption, the annual budget may be amended on the board's approval.

Sec. 5.05. LIMITATION ON EXPENDITURE. Money may not be spent for an expense not included in the annual budget or an amendment to it unless the board by order declares the expense to be necessary.

Sec. 5.06. SWORN STATEMENT. As soon as practicable after the close of the fiscal year, the treasurer of the district shall prepare for the board a sworn statement of the amount of money that belongs to the district and an account of the disbursements of that money.

Sec. 5.07. DEPOSITORY. (a) The board shall name one or more banks to serve as depository for district funds.

(b) District funds, other than those transmitted to a bank for payment of bonds issued by the district, shall be deposited as received with the depository bank and must remain on deposit. This section does not limit the power of the board to invest the district's funds as provided by Section 5.08 of this Act.

(c) Before the district deposits funds in a bank in an amount that exceeds the maximum amount secured by the Federal Deposit Insurance Corporation, the bank must execute a bond or provide other security in an amount sufficient to secure from loss the district's funds that exceed the amount secured by the Federal Deposit Insurance

Corporation.

Sec. 5.08. INVESTMENTS. (a) Funds of the district may be invested and reinvested by the board or its authorized representative in those investments specified by Article 836 or 837, Revised Statutes, or the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes).

(b) Funds of the district may be placed in certificates of deposit of state or national banks or state or federal savings and loan associations within the state provided that funds are secured in the manner required for the security of the funds of counties of the state.

(c) The board by resolution may provide that an authorized representative of the district may invest and reinvest the funds of the district and provide for money to be withdrawn from the appropriate accounts of the district for investments on terms the board considers advisable.

Sec. 5.09. PAYMENT OF EXPENSES. (a) The district's directors may pay all costs and expenses necessarily incurred in the creation, organization, and operation of the district, legal fees, and other incidental expenses and may reimburse any person for money advanced for those purposes.

(b) Payments may be made from money obtained from the sale of bonds issued by the district or out of taxes, fees, or other revenues of the district.

Sec. 5.10. BORROWING MONEY. The district may borrow money for any purpose authorized under this Act or any combination of those purposes.

ARTICLE 6. BONDS

Sec. 6.01. AUTHORITY TO ISSUE BONDS. The board may issue and sell bonds in the name of the district to acquire land and construct works, improvements, and waste disposal, treatment, and other facilities, plants, pipelines, equipment, and appliances as provided by this Act.

Sec. 6.02. BOND PAYMENT. The board may provide for the payment of the principal of and interest on the bonds:

(1) from the levy and collection of property taxes on all taxable property within the district;

(2) by pledging all or part of the designated revenues from the ownership or operation of the district's works, improvements, and facilities; or

(3) from a combination of the sources listed by Subdivisions (1) and (2) of this section.

Sec. 6.03. BOND ELECTION. (a) Bonds may not be issued by the district until authorized by a majority vote of individuals qualified to vote and actually voting in the area within the boundaries of the district at an election called and held for that purpose.

(b) The board may order a bond election. The order calling the election must state the nature and the date of the election, the hours during which the polls will be open, the location of the polling places, the amount of bonds to be authorized, and the maximum maturity of the bonds.

(c) Notice of a bond election must be given as provided by the Election Code.

(d) At an election to authorize bonds, the ballot must be printed to provide for voting for or against the issuance of bonds and the levy of property taxes for payment of the bonds.

(e) The board shall canvass the returns and declare the results of the election. If a majority of the votes cast at the election favor the issuance of the bonds, the bonds may be issued by the board, but if a majority of the votes cast at the election do not favor issuance of the bonds, the bonds may not be issued.

Sec. 6.04. TERMS; FORM. (a) The district may issue its bonds in various series or issues.

(b) Bonds may mature serially or otherwise not more than 50 years after the date of issuance and shall bear interest at a rate permitted by state law.

(c) The district's bonds and interest coupons, if any, are investment securities under the terms of Chapter 8, Business & Commerce Code, and may be issued registrable as to principal or as to principal and interest or may be issued in book entry form and may be made redeemable before maturity at the option of the district or may contain a mandatory redemption provision.

(d) The district's bonds may be issued in the form, denominations, and manner and under the terms, conditions, and details and shall be signed and executed as provided by the board in the resolution or order authorizing the bonds.

Sec. 6.05. BOND PROVISIONS. (a) In the orders or resolutions authorizing the issuance of bonds, including refunding bonds, the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, the reserve fund, and

other funds and may make additional covenants with respect to the bonds and the pledged fees.

(b) The orders or resolutions of the board authorizing the issuance of bonds may prohibit the further issuance of bonds or other obligations payable from the pledged fees or may reserve the right to issue additional bonds to be secured by a pledge of and payable from the fees on a parity with or subordinate to the pledge in support of the bonds being issued.

(c) The orders or resolutions of the board issuing bonds may contain other provisions and covenants as the board may determine.

(d) The board may adopt and have executed any other proceedings or instruments necessary and convenient in the issuance of bonds.

Sec. 6.06. APPROVAL AND REGISTRATION. (a) Bonds issued by the district and the records relating to their issuance must be submitted to the attorney general for examination as to their validity.

(b) If the attorney general finds that the bonds have been authorized in accordance with the law, the attorney general shall approve them, and the comptroller of public accounts shall register the bonds.

(c) Following approval and registration, the bonds are incontestable and are binding obligations according to their terms.

Sec. 6.07. REFUNDING BONDS. (a) Refunding bonds of the district may be issued to refund and pay off an outstanding indebtedness the district has issued or assumed.

(b) The bonds must be issued in the manner provided by Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes).

(c) The refunding bonds may be sold and the proceeds applied to the payment of outstanding indebtedness or may be exchanged in whole or in part for not less than a similar principal amount of outstanding indebtedness. If the refunding bonds are to be sold and the proceeds applied to the payment of outstanding indebtedness, the refunding bonds must be issued and payments made in the manner provided by Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes).

Sec. 6.08. LEGAL INVESTMENTS; SECURITY FOR DEPOSITS. (a) District bonds are legal and authorized investments for:

(1) a bank;

(2) a savings bank;

(3) a trust company;
(4) a savings and loan association;
(5) an insurance company;
(6) a fiduciary;
(7) a trustee;
(8) a guardian; and
(9) the sinking fund of a municipality, county, school district, or other political subdivision of the state and other public funds of the state and its agencies, including the permanent school fund.

(b) District bonds may secure deposits of public funds of the state or a municipality, county, school district, or other political subdivision of the state. The bonds are lawful and sufficient security for deposits to the extent of their value, if accompanied by all unmatured coupons.

Sec. 6.09. MANDAMUS BY BONDHOLDERS. In addition to all other rights and remedies provided by law, if the district defaults in the payment of principal, interest, or redemption price on its bonds when due or if it fails to make payments into any fund or funds created in the orders or resolutions authorizing the issuance of the bonds or defaults in the observation or performance of any other covenants, conditions, or obligations set forth in the orders or resolutions authorizing the issuance of its bonds, the owners of any of the bonds are entitled to a writ of mandamus issued by a court of competent jurisdiction compelling and requiring the district and its officials to observe and perform the covenants, obligations, or conditions prescribed in the orders or resolutions authorizing the issuance of the district's bonds.

Sec. 6.10. APPLICATION OF OTHER LAWS. Bonds of the district are considered bonds under the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes).

ARTICLE 7. TAXES

Sec. 7.01. TAX STATUS OF BONDS. Since the district created under this Act is a public entity performing an essential public function, bonds issued by the district, any transaction relating to the bonds, and profits made in the sale of the bonds are free from taxation by the state or by a municipality, county, special district, or other political subdivision of the state.

Sec. 7.02. LEVY OF TAXES. (a) The board may annually levy taxes in the district in an amount necessary to pay the principal of and interest on bonds issued by the district and the expense of

assessing and collecting taxes.

(b) The district may annually levy and collect a maintenance and operating tax in an amount not to exceed five cents on each $100 of assessed valuation of property in the district to pay maintenance and operating expenses of the district.

(c) The combined tax rate for all purposes may not exceed 10 cents on each $100 of assessed valuation of property in the district.

Sec. 7.03. BOARD AUTHORITY. (a) The board may levy taxes for the entire year in which the district is created.

(b) The board shall levy taxes on all property within the boundaries of the district subject to district taxation.

Sec. 7.04. TAX RATE. In setting the tax rate, the board shall take into consideration the income of the district from sources other than taxation. On determination of the amount of tax required to be levied, the board shall make the levy and certify it to the tax collector.

Sec. 7.05. TAX APPRAISAL, ASSESSMENT, AND COLLECTION. (a) The Tax Code governs the appraisal, assessment, and collection of district taxes.

(b) The board may provide for the appointment of a tax collector for the district or may contract for the collection of taxes as provided by the Tax Code.

ARTICLE 8. CHANGE IN BOUNDARIES

Sec. 8.01. EXPANSION OF DISTRICT TERRITORY. (a) Registered voters of a defined territory that is not included in the district may file a petition with the secretary of the board requesting the inclusion of the territory in the district. The petition must be signed by at least 50 registered voters of the territory or a majority of those voters, whichever is less.

(b) The board by order shall set a time and place to hold a hearing on the petition to include the territory in the district. The board shall set a date for the hearing that is after the 30th day after the date the board issues the order.

(c) If after the hearing the board finds that annexation of the territory into the district would be feasible and would benefit the district, the board may approve the annexation by a resolution entered in its minutes. The board is not required to include all of the territory described in the petition if the board finds that a modification or change is necessary or desirable.

(d) Annexation of territory is final when approved by a majority

of the voters at an election held in the district and by a majority of the voters at a separate election held in the territory to be annexed. If the district has outstanding debts or taxes, the voters in the election to approve the annexation must also determine if the annexed territory will assume its proportion of the debts or taxes if added to the district.

(e) The election ballots shall be printed to provide for voting for or against the following, as applicable:

(1) "Adding (description of territory to be added) to the Gaines County Solid Waste Management District."

(2) "(Description of territory to be added) assuming its proportionate share of the outstanding debts and taxes of the Gaines County Solid Waste Management District, if it is added to the district."

(f) The election shall be held after the 45th day and on or before the 60th day after the date the election is ordered. The election shall be ordered and notice of the election shall be given in accordance with the Election Code. Section 41.001(a), Election Code, does not apply to an election held under this section.

Acts 1991, 72nd Leg., ch. 670, Sec. 1, eff. June 16, 1991. Sec. 4.07 amended by Acts 1993, 73rd Leg., ch. 757, Sec. 31, eff. Sept. 1, 1993; Sec. 4.13 amended by Acts 1993, 73rd Leg., ch. 757, Sec. 32, eff. Sept. 1, 1993.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 5.03, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 5.04, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 9.01(a)(12), eff. September 1, 2011.

CHAPTER 6-1/2. ABORTION

Art. 4512.5. DESTROYING UNBORN CHILD. Whoever shall during parturition of the mother destroy the vitality or life in a child in a state of being born and before actual birth, which child would otherwise have been born alive, shall be confined in the penitentiary for life or for not less than five years.

TITLE 83. LABOR
CHAPTER 10. ECONOMIC DEVELOPMENT

Art. 5190.14. PAN AMERICAN GAMES; OLYMPIC GAMES.

Sec. 1. DEFINITIONS. In this Act:

Text of subdivision effective until April 1, 2021

(1) "Department" means the Economic Development and Tourism Division, Office of the Governor.

Text of subdivision effective until April 1, 2021

(1-a) "Endorsing county" means an endorsing county for purposes of Section 5, 5A, 5B, or 5C of this Act.

Text of subdivision effective until April 1, 2021

(2) "Endorsing municipality" means an endorsing municipality for purposes of Section 4, 5, 5A, 5B, or 5C of this Act.

Text of subdivision effective until April 1, 2021

(2-a) "Event" means a game or event as defined by Section 5A, 5B, or 5C of this Act.

Text of subd. (3) as amended by Acts 2003, 78th Leg., ch. 579, Sec. 1

(3) "Games" means the 2011 Pan American Games or the 2012 Olympic Games.

Text of subd. (3) as amended by Acts 2003, 78th Leg., ch. 814, Sec. 5.01

(3) "Games" means the Pan American Games, the Olympic Games, the Super Bowl, the National Collegiate Athletic Association Final Four, the National Basketball Association All-Star Game, the National Hockey League All-Star Game, the Major League Baseball All-Star Game, the National Collegiate Athletic Association Bowl Championship Series Games, the World Cup Soccer Games, or the World Games. The term includes the events and activities related to the games.

(4) "Games support contract" means a joinder undertaking, a joinder agreement, or a similar contract executed by the department and containing terms permitted or required by this Act.

Text of subdivision effective until April 1, 2021

(5) "Joinder agreement" means an agreement entered into by:

(A) the department on behalf of this state and a site selection organization setting out representations and assurances by the state in connection with the selection of a site in this state for the location of a game or event; or

(B) a local organizing committee, an endorsing municipality, an endorsing county, or more than one local organizing committee, endorsing municipality, or endorsing county acting collectively, and a site selection organization setting out representations and assurances by each local organizing committee, endorsing municipality, or endorsing county in connection with the selection of a site in this state for the location of a game or event.

Text of subdivision effective until April 1, 2021

(6) "Joinder undertaking" means an agreement entered into by:

(A) the department on behalf of this state and a site selection organization that the state will execute a joinder agreement if the site selection organization selects a site in this state for a game or event; or

(B) a local organizing committee, an endorsing municipality, an endorsing county, or more than one local organizing committee, endorsing municipality, or endorsing county acting collectively, and a site selection organization that each local organizing committee, endorsing municipality, or endorsing county will execute a joinder agreement if the site selection organization selects a site in this state for a game or event.

Text of subdivision effective until April 1, 2021

(7) "Local organizing committee" means a nonprofit corporation or its successor in interest that:

(A) has been authorized by an endorsing municipality, endorsing county, or more than one endorsing municipality or county acting collectively to pursue an application and bid on the applicant's behalf to a site selection organization for selection as the site of a game or event; or

(B) with the authorization of an endorsing municipality, endorsing county, or more than one endorsing municipality or county acting collectively, has executed an agreement with a site selection organization regarding a bid to host a game or event.

Text of subdivision effective until April 1, 2021

(8) "Site selection organization" means a site selection organization as defined by Sections 5, 5A, and 5C of this Act.

Sec. 2. PURPOSE. The purpose of this Act is to provide

assurances required by a site selection organization sponsoring a sporting or non-sporting game or event and to provide financing for the costs of:

(1) applying or bidding for selection as the site of a game or event in this state;

(2) making the preparations necessary and desirable for the conduct of a game or event in this state, including the construction or renovation of facilities to the extent authorized by this Act; and

(3) conducting a game or event in this state.

Sec. 3. LEGISLATIVE FINDINGS. The conduct in this state of one or more games or events will:

(1) provide invaluable public visibility throughout the nation or world for this state and the communities where the games or events are held;

(2) encourage and provide major economic benefits to the communities where the games or events are held and to the entire state; and

(3) provide opportunities for the creation of jobs by local and Texas businesses that pay a living wage.

Sec. 3A. RULES. The office of the governor shall adopt rules consistent with this Act to ensure efficient administration of the trust funds established under this Act, including rules related to application and receipt requirements.

Sec. 4. GUARANTEE OF STATE AND MUNICIPAL OBLIGATIONS; PAN AMERICAN GAMES TRUST FUND. (a) In this section:

Text of subd. (1) as amended by Acts 2003, 78th Leg., ch. 579, Sec. 3

(1) "Games" means the 2011 Pan American Games.

Text of subd. (1) as amended by Acts 2003, 78th Leg., ch. 814, Sec. 5.03

(1) "Games" means the Pan American Games.

(2) "Site selection organization" means the United States Olympic Committee or the Pan American Sports Organization.

(3) "Endorsing municipality" means a municipality that has a population of 850,000 or more and that authorizes a bid by a local organizing committee for selection of the municipality as the site of the games.

Text of subsection effective until April 1, 2021

(b) If a site selection organization selects a site for the games in this state pursuant to an application by a local organizing

committee acting on behalf of an endorsing municipality, after the first occurrence of a measurable economic impact in this state as a result of the preparation for the games, as determined by the department, but in no event later than one year before the scheduled opening event of the games, the department shall determine for each subsequent calendar quarter, in accordance with procedures developed by the department:

Text of subdivision effective until April 1, 2021

(1) the incremental increase in the receipts to the state from the taxes imposed under Chapters 151, 152, 156, and 183, Tax Code, and under Title 5, Alcoholic Beverage Code, within the market areas designated under Subsection (c) of this section, that is directly attributable, as determined by the department, to the preparation for and presentation of the games and related events;

Text of subdivision effective until April 1, 2021

(2) the incremental increase in the receipts collected by the state on behalf of the endorsing municipality from the sales and use tax imposed by the endorsing municipality under Section 321.101(a), Tax Code, that is directly attributable, as determined by the department, to the preparation for and presentation of the games and related events; and

Text of subdivision effective until April 1, 2021

(3) the incremental increase in the receipts collected by the endorsing municipality from the municipality's hotel occupancy tax imposed under Chapter 351, Tax Code, that is directly attributable, as determined by the department, to the preparation for and presentation of the games and related events.

Text of subsection effective until April 1, 2021

(c) For the purposes of Subsection (b)(1) of this section, the department shall designate as a market area for the games each area in which the department determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the games and related events, including areas likely to provide venues, accommodations, and services in connection with the games based on the proposal provided by the local organizing committee under Section 7 of this Act. The department shall determine the geographic boundaries of each market area. The endorsing municipality that has been selected as the site for the games must be included in a market area for the games.

Text of subsection effective until April 1, 2021

(d) The comptroller, at the direction of the department, shall retain, for the purpose of guaranteeing the joint obligations of the state and the endorsing municipality under a games support contract and this Act, the amount of municipal sales and use tax revenue determined under Subsection (b)(2) of this section from the amounts otherwise required to be sent to the municipality under Section 321.502, Tax Code, beginning with the first distribution of that tax revenue that occurs after the date the department makes the determination of the amount of municipal sales and use tax revenue under Subsection (b)(2). The comptroller shall discontinue retaining municipal sales and use tax revenue under this subsection on the earlier of:

Text of subdivision effective until April 1, 2021

(1) the end of the third calendar month following the month in which the closing event of the games occurs; or

Text of subdivision effective until April 1, 2021

(2) the date the amount of municipal sales and use tax revenue and municipal hotel occupancy tax revenue in the Pan American Games trust fund equals 14 percent of the maximum amount of state and municipal tax revenue that may be transferred to or deposited in the trust fund under Subsection (m) of this section.

(e) In addition to municipal sales and use tax revenue retained under Subsection (d) of this section, an endorsing municipality may guarantee its obligations under a games support contract and this Act by pledging surcharges from user fees, including parking or ticket fees, charged in connection with presentation of the games.

Text of subsection effective until April 1, 2021

(f) Subject to Subsection (m) of this section, the comptroller, at the direction of the department, shall deposit into a trust fund designated as the Pan American Games trust fund the amount of municipal sales and use tax revenue retained under Subsection (d) of this section and, at the same time, shall transfer to the fund a portion of the state tax revenue determined by the department under Subsection (b)(1) of this section in an amount equal to 6.25 times the amount of that municipal sales and use tax revenue. Subject to Subsection (m) of this section, the endorsing municipality shall deposit into the trust fund the amount of the endorsing municipality's hotel occupancy tax revenue determined by the

department under Subsection (b)(3) of this section. The endorsing municipality shall deposit that hotel occupancy tax revenue into the trust fund at least quarterly. When the endorsing municipality makes a deposit of its hotel occupancy tax revenue, the comptroller, at the direction of the department, shall transfer to the fund at the same time a portion of the state tax revenue determined under Subsection (b)(1) of this section in an amount equal to 6.25 times the amount of that municipal hotel occupancy tax revenue. The Pan American Games trust fund is established outside the treasury but is held in trust by the comptroller for the administration of this Act. Money in the trust fund may be spent by the department without appropriation only as provided by this Act. The comptroller shall discontinue transferring into the trust fund any state tax revenue determined by the department under Subsection (b)(1) of this section on the earlier of:

Text of subdivision effective until April 1, 2021

(1) the end of the third calendar month following the month in which the closing event of the games occurs; or

Text of subdivision effective until April 1, 2021

(2) the date on which the amount of state revenue in the Pan American Games trust fund equals 86 percent of the maximum amount of state and municipal tax revenue that may be transferred to or deposited in the trust fund under Subsection (m) of this section.

(g) The department may use the funds in the Pan American Games trust fund only to fulfill joint obligations of the state and the endorsing municipality to a site selection organization under a games support contract or any other agreement providing assurances from the department or the endorsing municipality to a site selection organization.

Text of subsection effective until April 1, 2021

(h) A local organizing committee shall provide information required by the department to enable the department to fulfill the department's duties under this Act, including annual audited statements of the local organizing committee's financial records required by a site selection organization and data obtained by the local organizing committee relating to attendance at the games and to the economic impact of the games. A local organizing committee must provide an annual audited financial statement required by the department not later than the end of the fourth month after the date

the period covered by the financial statement ends.

Text of subsection effective until April 1, 2021

(i) The department shall provide an estimate not later than September 1 of the year that is eight years before the year in which the games would be held in this state of the total amount of state and municipal tax revenue that would be transferred to or deposited in the Pan American Games trust fund before January 1 of the year following the year in which the games would be held, if the games were to be held in this state at a site selected pursuant to an application by a local organizing committee. The department shall provide the estimate on request to a local organizing committee. A local organizing committee may submit the department's estimate to a site selection organization.

Text of subsection effective until April 1, 2021

(j) The department may not make a disbursement from the Pan American Games trust fund unless the department certifies that the disbursement is for a purpose for which the state and the endorsing municipality are jointly obligated under a games support contract or other agreement described by Subsection (g) of this section.

Text of subsection effective until April 1, 2021

(k) If the department certifies under Subsection (j) of this section that a disbursement may be made from the Pan American Games trust fund, the obligation shall be satisfied first out of municipal revenue deposited in the trust fund and any interest earned on that municipal revenue. If the municipal revenue is not sufficient to satisfy the entire deficit, state revenue transferred into the trust fund and any interest earned on that state revenue shall be used to satisfy the portion of the deficit not covered by the municipal revenue.

Text of subsection effective until April 1, 2021

(l) On January 1 of the second year following the year in which the games are held in this state, the comptroller, at the direction of the department, shall transfer to the general revenue fund any money remaining in the Pan American Games trust fund, not to exceed the amount of state revenue remaining in the trust fund, plus any interest earned on that state revenue. The comptroller shall remit to the endorsing municipality any money remaining in the trust fund after the required amount is transferred to the general revenue fund.

Text of subsection effective until April 1, 2021

(m) In no event may:

Text of subdivision effective until April 1, 2021

(1) the total amount of state and municipal tax revenue transferred to or deposited in the Pan American Games trust fund exceed $20 million; or

Text of subdivision effective until April 1, 2021

(2) the joint liability of the state and the endorsing municipality under a joinder agreement and any other games support contracts entered into pursuant to this Act exceed the lesser of:

(A) $20 million; or

(B) the total amount of revenue transferred to or deposited in the Pan American Games trust fund and interest earned on the fund.

Sec. 5. GUARANTEE OF STATE AND MUNICIPAL OBLIGATIONS; OLYMPIC GAMES TRUST FUND. (a) In this section:

(1) "Games" means the Olympic Games.

(2) "Site selection organization" means the United States Olympic Committee or the International Olympic Committee.

(3) "Endorsing county" means a county in which there is located all or part of a municipality that has a population of 850,000 or more, or a county adjacent to such a county.

(4) "Endorsing municipality" has the meaning assigned by Section 4 of this Act.

Text of subsection effective until April 1, 2021

(b) If a site selection organization selects a site for the games in this state pursuant to an application by a local organizing committee, after the first occurrence of a measurable economic impact in this state as a result of the preparation for the games, as determined by the department, but in no event later than one year before the scheduled opening event of the games, the department shall determine for each subsequent calendar quarter, in accordance with procedures developed by the department:

Text of subdivision effective until April 1, 2021

(1) the incremental increase in the receipts to the state from the taxes imposed under Chapters 151, 152, 156, and 183, Tax Code, and under Title 5, Alcoholic Beverage Code, within the market areas designated under Subsection (c) of this section, that is directly attributable, as determined by the department, to the

preparation for and presentation of the games and related events;

Text of subdivision effective until April 1, 2021

(2) the incremental increase in the receipts collected by the state on behalf of each endorsing municipality from the sales and use tax imposed by the endorsing municipality under Section 321.101(a), Tax Code, and the mixed beverage tax revenue to be received by the endorsing municipality under Section 183.051(b), Tax Code, that is directly attributable, as determined by the department, to the preparation for and presentation of the games and related events;

Text of subdivision effective until April 1, 2021

(3) the incremental increase in the receipts collected by the state on behalf of each endorsing county from the sales and use tax imposed by the county under Section 323.101(a), Tax Code, and the mixed beverage tax revenue to be received by the endorsing county under Section 183.051(b), Tax Code, that is directly attributable, as determined by the department, to the preparation for and presentation of the games and related events;

Text of subdivision effective until April 1, 2021

(4) the incremental increase in the receipts collected by each endorsing municipality from the hotel occupancy tax imposed under Chapter 351, Tax Code, that is directly attributable, as determined by the department, to the preparation for and presentation of the games and related events; and

Text of subdivision effective until April 1, 2021

(5) the incremental increase in the receipts collected by each endorsing county from the hotel occupancy tax imposed under Chapter 352, Tax Code, that is directly attributable, as determined by the department, to the preparation for and presentation of the games and related events.

Text of subsection effective until April 1, 2021

(c) For the purposes of Subsection (b)(1) of this section, the department shall designate as a market area for the games each area in which the department determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the games and related events, including areas likely to provide venues, accommodations, and services in connection with the games based on the proposal provided

by the local organizing committee under Section 7 of this Act. The department shall determine the geographic boundaries of each market area. Each endorsing municipality or endorsing county that has been selected as the site for the games must be included in a market area for the games.

Text of subsection effective until April 1, 2021

(d) Subject to Section 6 of this Act, the comptroller, at the direction of the department, shall retain, for the purpose of guaranteeing the joint obligations of the state and an endorsing municipality or endorsing county under a games support contract and this Act, the amount of sales and use tax revenue and mixed beverage tax revenue determined under Subsection (b)(2) or (b)(3) of this section from the amounts otherwise required to be sent to the municipality under Section 183.051(b) or 321.502, Tax Code, or to the county under Section 183.051(b) or 323.502, Tax Code, beginning with the first distribution of that tax revenue that occurs after the date the department makes the determination of the amount of sales and use tax revenue and mixed beverage tax revenue under Subsection (b)(2) or (b)(3) of this section. The comptroller shall discontinue retaining sales and use tax revenue and mixed beverage tax revenue under this subsection on the earlier of:

Text of subdivision effective until April 1, 2021

(1) the end of the third calendar month following the month in which the closing event of the games occurs; or

Text of subdivision effective until April 1, 2021

(2) the date the amount of local sales and use tax revenue and mixed beverage tax revenue in the Olympic Games trust fund equals 14 percent of the maximum amount of state and local tax revenue that may be transferred to or deposited in the trust fund under Subsection (m) of this section.

(e) In addition to sales and use tax revenue and mixed beverage tax revenue retained under Subsection (d) of this section and hotel occupancy tax revenue retained under Subsection (f) of this section, an endorsing municipality or endorsing county may guarantee its obligations under a games support contract and this Act by pledging surcharges from user fees, including parking or ticket fees, charged in connection with presentation of the games.

Text of subsection effective until April 1, 2021

(f) Subject to Subsection (m) of this section, each endorsing

municipality or endorsing county shall remit to the comptroller and the comptroller, at the direction of the department, shall deposit into a trust fund designated as the Olympic Games trust fund, on a quarterly basis, the amount of the municipality's or county's hotel occupancy tax revenue determined by the department under Subsection (b)(4) or (b)(5) of this section, as applicable. Subject to Section 6 of this Act and Subsection (m) of this section, the comptroller, at the direction of the department, shall deposit into the trust fund the amount of sales and use tax revenue and mixed beverage tax revenue retained under Subsection (d) of this section for the same calendar quarter and, at the same time, shall transfer to the fund the state tax revenue determined by the department under Subsection (b)(1) of this section for the quarter. The Olympic Games trust fund is established outside the treasury but is held in trust by the comptroller for the administration of this Act. Money in the trust fund may be spent by the department without appropriation only as provided by this Act. The comptroller shall discontinue transfer of the amount of state tax revenue determined by the department under Subsection (b)(1) of this section on the earlier of:

Text of subdivision effective until April 1, 2021

(1) the end of the third calendar month following the month in which the closing event of the games occurs; or

Text of subdivision effective until April 1, 2021

(2) the date the amount of state revenue in the Olympic Games trust fund equals 86 percent of the maximum amount of state, municipal, and county tax revenue that may be transferred to or deposited in the trust fund under Subsection (m) of this section.

(g) The department may use the funds in the Olympic Games trust fund only to fulfill joint obligations of the state and each endorsing municipality or endorsing county to a site selection organization under a games support contract or any other agreement providing assurances from the department or the municipality or county to a site selection organization.

Text of subsection effective until April 1, 2021

(h) A local organizing committee shall provide information required by the department to enable the department to fulfill the department's duties under this Act, including annual audited statements of the local organizing committee's financial records required by a site selection organization and data obtained by the

local organizing committee relating to attendance at the games and to the economic impact of the games. A local organizing committee must provide an annual audited financial statement required by the department not later than the end of the fourth month after the date the period covered by the financial statement ends.

Text of subsection effective until April 1, 2021

(i) The department shall provide an estimate before August 31 of the year that is 12 years before the year in which the games would be held in this state, or as soon as practical after that date, of the total amount of state, municipal, and county tax revenue that would be transferred to or deposited in the Olympic Games trust fund if the games were to be held in this state at a site selected pursuant to an application by a local organizing committee. The department shall provide the estimate on request to a local organizing committee. A local organizing committee may submit the department's estimate to a site selection organization.

Text of subsection effective until April 1, 2021

(j) The department may not make a disbursement from the Olympic Games trust fund unless the department certifies that the disbursement is for a purpose for which the state and each endorsing municipality or endorsing county are jointly obligated under a games support contract or other agreement described by Subsection (g) of this section. A disbursement may not be made from the trust fund that the department determines would be used for the purpose of soliciting the relocation of a professional sports franchise located in this state.

Text of subsection effective until April 1, 2021

(k) If the department certifies under Subsection (j) of this section that a disbursement may be made from the Olympic Games trust fund, the obligation shall be satisfied proportionately from the state and municipal or county revenue in the trust fund.

Text of subsection effective until April 1, 2021

(l) Two years after the closing event of the games, the department shall transfer to the general revenue fund any money remaining in the Olympic Games trust fund, not to exceed the amount of state revenue remaining in the trust fund, plus any interest earned on that state revenue. The department shall remit to each endorsing entity in proportion to the amount contributed by the entity any money remaining in the trust fund after the required

amount is transferred to the general revenue fund.

Text of subsection effective until April 1, 2021

(m) In no event may:

Text of subdivision effective until April 1, 2021

(1) the total amount of state, municipal, and county tax revenue transferred to or deposited in the Olympic Games trust fund exceed $100 million; or

Text of subdivision effective until April 1, 2021

(2) the joint liability of the state and an endorsing municipality or county under a joinder agreement and any other games support contracts entered into pursuant to this Act exceed the lesser of:

(A) $100 million; or

(B) the total amount of revenue transferred to or deposited in the Olympic Games trust fund and interest earned on the fund.

Sec. 5A. PAYMENT OF STATE AND MUNICIPAL OR COUNTY OBLIGATIONS UNDER MAJOR EVENTS REIMBURSEMENT PROGRAM. (a) In this section:

(1) "Endorsing county" means:

(A) a county that contains a site selected by a site selection organization for one or more events; or

(B) a county that:

(i) does not contain a site selected by a site selection organization for an event;

(ii) is included in the market area for the event as designated by the department; and

(iii) is a party to an event support contract.

(2) "Endorsing municipality" means:

(A) a municipality that contains a site selected by a site selection organization for one or more events; or

(B) a municipality that:

(i) does not contain a site selected by a site selection organization for an event;

(ii) is included in the market area for the event as designated by the department; and

(iii) is a party to an event support contract.

(3) "Event support contract" means a joinder undertaking, joinder agreement, or a similar contract executed by a local organizing committee, an endorsing municipality, or an endorsing

county and a site selection organization.

(4) "Event" means a Super Bowl, a National Collegiate Athletic Association Final Four tournament game, the National Basketball Association All-Star Game, the X Games, the National Hockey League All-Star Game, the Major League Baseball All-Star Game, a game of the National Collegiate Athletic Association Bowl Championship Series or its successor or a National Collegiate Athletic Association Division I Football Bowl Subdivision postseason playoff or championship game, a Big 12 Football Conference Championship game, the National Collegiate Athletic Association men's or women's lacrosse championships, a World Cup Soccer game, the World Cup soccer tournament, the Major League Soccer All-Star Game, the Major League Soccer Cup, the Professional Rodeo Cowboys Association National Finals Rodeo, an Elite Rodeo Association World Championship, the United States Open Championship, the World Games, a national collegiate championship of an amateur sport sanctioned by the national governing body of the sport that is recognized by the United States Olympic Committee, an Olympic activity, including a Junior or Senior activity, training program, or feeder program sanctioned by the United States Olympic Committee's Community Olympic Development Program, the Amateur Athletic Union Junior Olympic Games, a mixed martial arts championship, a World Wrestling Entertainment WrestleMania event, the Breeders' Cup World Championships, a Formula One automobile race, the Moto Grand Prix of the United States, the National Association for Stock Car Auto Racing (NASCAR) All-Star Race, the season-ending Championship Race for the National Association for Stock Car Auto Racing (NASCAR), the Academy of Country Music Awards, the National Cutting Horse Association Triple Crown, a championship event in the National Reined Cow Horse Association (NRCHA) Championship Series, a CONVRG conference, a national political convention of the Republican National Committee or the Democratic National Committee, a presidential general election debate, or the largest event held each year at a sports entertainment venue in this state with a permanent seating capacity, including grandstand and premium seating, of not less than 125,000. The term includes any activities related to or associated with an event.

(5) "Site selection organization" means:

(A) the National Football League, the National Collegiate Athletic Association, the Big 12 Conference, the National Basketball Association, ESPN or an affiliate, the National Hockey

League, Major League Baseball, the Federation Internationale de Football Association (FIFA), the International World Games Association, the National Association for Stock Car Auto Racing (NASCAR), Dorna Sports, the Amateur Athletic Union, the Professional Rodeo Cowboys Association, the Elite Rodeo Association, Major League Soccer, the United States Golf Association, or the United States Olympic Committee;

(B) the national governing body of a sport that is recognized by the United States Olympic Committee, the National Thoroughbred Racing Association, Formula One Management Limited, or the Federation Internationale de l'Automobile;

(C) the Academy of Country Music;

(D) the National Cutting Horse Association;

(E) the National Reined Cow Horse Association (NRCHA);

(F) Encore Live;

(G) the Republican National Committee or the Democratic National Committee;

(H) the Ultimate Fighting Championship;

(I) World Wrestling Entertainment; or

(J) the Commission on Presidential Debates.

Text of subsection effective until April 1, 2021

(a-1) An event not listed in Subsection (a)(4) of this section is ineligible for funding under this section. A listed event may receive funding through the Major Events Reimbursement Program under this section only if:

Text of subdivision effective until April 1, 2021

(1) a site selection organization selects a site located in this state for the event to be held one time or, for an event scheduled to be held each year for a period of years under an event contract, or an event support contract, one time each year for the period of years, after considering, through a highly competitive selection process, one or more sites that are not located in this state;

Text of subdivision effective until April 1, 2021

(2) a site selection organization selects a site in this state as:

(A) the sole site for the event; or

(B) the sole site for the event in a region composed of this state and one or more adjoining states;

Text of subdivision effective until April 1, 2021

(3) the event is held not more than one time in any year;

Text of subdivision effective until April 1, 2021

(4) the amount of the incremental increase in tax receipts determined by the department under Subsection (b) of this section equals or exceeds $1 million, provided that for an event scheduled to be held each year for a period of years under an event contract or event support contract, the incremental increase in tax receipts shall be calculated as if the event did not occur in the prior year; and

Text of subdivision effective until April 1, 2021

(5) not later than the 30th day before the first day of the event, a site selection organization submits a plan to prevent the trafficking of persons in connection with the event to the office of the attorney general and the chief of the Texas Division of Emergency Management.

Text of subsection effective until April 1, 2021

(a-2) Subsection (a-1)(1) of this section does not apply to an event that is the largest event held each year at a sports entertainment venue in this state with a permanent seating capacity, including grandstand and premium seating, of not less than 125,000. If an endorsing municipality or endorsing county requests the department to make a determination under Subsection (b) of this section for an event described by this subsection, the provisions of this section apply to that event as if it satisfied the eligibility requirements for an event under Subsection (a-1)(1) of this section.

Text of subsection effective until April 1, 2021

(a-3) For purposes of Subsection (a-1) of this section, each presidential general election debate in a series of presidential debates before a general election is considered a separate, single event.

Text of subsection effective until April 1, 2021

(a-4) The office of the attorney general may:

Text of subdivision effective until April 1, 2021

(1) distribute the plan required under Subsection (a-1)(5) of this section to appropriate law enforcement agencies and to the office of the governor; and

Text of subdivision effective until April 1, 2021

(2) publish the plan on the office's Internet website.

Text of subsection effective until April 1, 2021

(b) If a site selection organization selects a site for an event in this state pursuant to an application by a local organizing committee, endorsing municipality, or endorsing county, upon request of a local organizing committee, endorsing municipality, or endorsing county, the department shall determine for a one-year period that begins two months before the date on which the event will begin, in accordance with procedures developed by the department:

Text of subdivision effective until April 1, 2021

(1) the incremental increase in the receipts to the state from taxes imposed under Chapters 151, 152, 156, and 183, Tax Code, and under Title 5, Alcoholic Beverage Code, within the market areas designated under Subsection (c) of this section, that is directly attributable, as determined by the department, to the preparation for and presentation of the event and related activities;

Text of subdivision effective until April 1, 2021

(2) the incremental increase in the receipts collected by the state on behalf of each endorsing municipality in the market area from the sales and use tax imposed by each endorsing municipality under Section 321.101(a), Tax Code, and the mixed beverage tax revenue to be received by each endorsing municipality under Section 183.051(b), Tax Code, that is directly attributable, as determined by the department, to the preparation for and presentation of the event and related activities;

Text of subdivision effective until April 1, 2021

(3) the incremental increase in the receipts collected by the state on behalf of each endorsing county in the market area from the sales and use tax imposed by each endorsing county under Section 323.101(a), Tax Code, and the mixed beverage tax revenue to be received by each endorsing county under Section 183.051(b), Tax Code, that is directly attributable, as determined by the department, to the preparation for and presentation of the event and related activities;

Text of subdivision effective until April 1, 2021

(4) the incremental increase in the receipts collected by each endorsing municipality in the market area from the hotel occupancy tax imposed under Chapter 351, Tax Code, that is directly

attributable, as determined by the department, to the preparation for and presentation of the event and related activities; and

Text of subdivision effective until April 1, 2021

(5) the incremental increase in the receipts collected by each endorsing county in the market area from the hotel occupancy tax imposed under Chapter 352, Tax Code, that is directly attributable, as determined by the department, to the preparation for and presentation of the event and related activities.

Text of subsection effective until April 1, 2021

(b-1) A request for a determination of the amount of incremental increase in tax receipts specified by Subsection (b) of this section must be submitted to the department not earlier than one year and not later than 45 days before the date the event begins. The department shall base the determination specified by Subsection (b) of this section on information submitted by the local organizing committee, endorsing municipality, or endorsing county, and must make the determination not later than the 30th day after the date the department receives the request and related information.

Text of subsection effective until April 1, 2021

(c) For the purposes of Subsection (b)(1) of this section, the department shall designate as a market area for the event each area in which the department determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the event and related activities, including areas likely to provide venues, accommodations, and services in connection with the event based on the proposal provided by the local organizing committee to the department. The department shall determine the geographic boundaries of each market area. An endorsing municipality or endorsing county that has been selected as the site for the event must be included in a market area for the event.

Text of subsection effective until April 1, 2021

(d) Each endorsing municipality or endorsing county participating in the Major Events Reimbursement Program shall remit to the comptroller and the comptroller shall deposit into a trust fund created by the comptroller, at the direction of the department, and designated as the Major Events reimbursement program fund the amount of the municipality's or county's hotel occupancy tax revenue determined by the department under Subsection (b)(4) or (b)(5) of

this section, less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county. The comptroller, at the direction of the department, shall retain the amount of sales and use tax revenue and mixed beverage tax revenue determined by the department under Subsection (b)(2) or (b)(3) of this section from the amounts otherwise required to be sent to the municipality under Sections 321.502 and 183.051(b), Tax Code, or to the county under Sections 323.502 and 183.051(b), Tax Code, and deposit into the fund the tax revenues, less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county. The comptroller shall begin retaining and depositing the local tax revenues with the first distribution of that tax revenue that occurs after the first day of the one-year period described by Subsection (b) of this section or at a time otherwise determined to be practicable by the department and shall discontinue retaining the local tax revenues under this subsection when the amount of the applicable tax revenue determined by the department under Subsection (b)(2) or (b)(3) of this section has been retained. The Major Events reimbursement program fund is established outside the state treasury and is held in trust by the comptroller for administration of this Act. Money in the fund may be disbursed by the department without appropriation only as provided by this section.

Text of subsection effective until April 1, 2021

(d-1) Not later than the 90th day after the last day of an event eligible for funding under the Major Events Reimbursement Program and in lieu of the local tax revenues remitted or retained under Subsection (d) of this section, a municipality or county may remit to the department for deposit in the Major Events reimbursement program fund other local funds in an amount equal to the total amount of local tax revenue determined by the department under Subsections (b)(2) through (5) of this section. The amount deposited by the department into the Major Events reimbursement program fund under this subsection is subject to Subsection (f) of this section.

Text of subsection effective until April 1, 2021

(e) In addition to the tax revenue deposited in the Major Events reimbursement program fund under Subsection (d) of this section, an endorsing municipality or endorsing county may guarantee

its obligations under an event support contract and this section by pledging surcharges from user fees, including parking or ticket fees, charged in connection with the event. An endorsing municipality or endorsing county may collect and remit to the department surcharges and user fees attributable to the event for deposit into the Major Events reimbursement program fund.

Text of subsection effective until April 1, 2021

(f) The comptroller, at the direction of the department, shall transfer into the Major Events reimbursement program fund a portion of the state tax revenue not to exceed the amount determined by the department under Subsection (b)(1) of this section in an amount equal to the prevailing state sales tax rate times the amount of the local revenue retained or remitted under this section, including:

Text of subdivision effective until April 1, 2021

(1) local sales and use tax revenue;

Text of subdivision effective until April 1, 2021

(2) mixed beverage tax revenue;

Text of subdivision effective until April 1, 2021

(3) hotel occupancy tax revenue; and

Text of subdivision effective until April 1, 2021

(4) surcharge and user fee revenue.

Text of subsection effective until April 1, 2021

(g) To meet its obligations under a game support contract or event support contract to improve, construct, renovate, or acquire facilities or to acquire equipment, an endorsing municipality by ordinance or an endorsing county by order may authorize the issuance of notes. An endorsing municipality or endorsing county may provide that the notes be paid from and secured by amounts on deposit or amounts to be deposited into the Major Events reimbursement program fund or surcharges from user fees, including parking or ticket fees, charged in connection with the event. Any note issued must mature not later than seven years from its date of issuance.

Text of subsection effective until April 1, 2021

(h) The funds in the Major Events reimbursement program fund may be used to pay the principal of and interest on notes issued by an endorsing municipality or endorsing county under Subsection (g) of this section and to fulfill obligations of the state or an endorsing municipality or endorsing county to a site selection organization

under a game support contract or event support contract. Subject to Subsection (k) of this section, the obligations may include the payment of costs relating to the preparations necessary or desirable for the conduct of the event and the payment of costs of conducting the event, including improvements or renovations to existing facilities or other facilities and costs of acquisition or construction of new facilities or other facilities.

Text of subsection effective until April 1, 2021

(i) A local organizing committee, endorsing municipality, or endorsing county shall provide information required by the department to enable the department to fulfill the department's duties under this section, including annual audited statements of any financial records required by a site selection organization and data obtained by the local organizing committee, an endorsing municipality, or an endorsing county relating to attendance at the event, including an estimate of the number of people expected to attend the event who are not residents of this state, and to the economic impact of the event. A local organizing committee, endorsing municipality, or endorsing county must provide an annual audited financial statement required by the department, if any, not later than the end of the fourth month after the date the period covered by the financial statement ends. After the conclusion of an event and on the department's request, a local organizing committee, endorsing municipality, or endorsing county must provide information relating to the event, such as attendance figures, including an estimate of the number of attendees at the event who are not residents of this state, financial information, or other public information held by the local organizing committee, endorsing municipality, or endorsing county that the department considers necessary.

Text of subsection effective until April 1, 2021

(j) Not later than the 30th day after the date a request of a local organizing committee, endorsing municipality, or endorsing county is submitted to the department under Subsection (b-1) of this section, the department shall provide an estimate of the total amount of tax revenue that would be deposited in the Major Events reimbursement program fund under this section in connection with that event, if the event were to be held in this state at a site selected pursuant to an application by a local organizing committee, endorsing municipality, or endorsing county. A local organizing committee,

endorsing municipality, or endorsing county may submit the department's estimate to a site selection organization.

Text of subsection effective until April 1, 2021

(k) The department may make a disbursement from the Major Events reimbursement program fund on the prior approval of each contributing endorsing municipality or endorsing county for a purpose for which a local organizing committee, an endorsing municipality, or an endorsing county or the state is obligated under a game support contract or event support contract. If an obligation is incurred under a games support contract or event support contract to make a structural improvement to the site or to add a fixture to the site for purposes of an event and that improvement or fixture is expected to derive most of its value in subsequent uses of the site for future events, a disbursement from the fund made for purposes of that obligation is limited to five percent of the cost of the improvement or fixture and the remainder of the obligation is not eligible for a disbursement from the fund, unless the improvement or fixture is for a publicly owned facility. In considering whether to make a disbursement from the fund, the department may not consider a contingency clause in an event support contract as relieving a local organizing committee's, endorsing municipality's, or endorsing county's obligation to pay a cost under the contract. A disbursement may not be made from the fund that the department determines would be used for the purpose of soliciting the relocation of a professional sports franchise located in this state.

Text of subsection effective until April 1, 2021

(l) If a disbursement is made from the Major Events reimbursement program fund under Subsection (k) of this section, the obligation shall be satisfied proportionately from the state and local revenue in the fund.

Text of subsection effective until April 1, 2021

(m) On payment of all state, municipal, or county obligations under a game support contract or event support contract related to the location of any particular event in the state, the department shall remit to each endorsing entity, in proportion to the amount contributed by the entity, any money remaining in the fund.

Text of subsection effective until April 1, 2021

(o) This section may not be construed as creating or requiring a state guarantee of obligations imposed on the state or an endorsing

municipality or endorsing county under an event support contract or other agreement relating to hosting one or more events in this state.

Text of subsection effective until April 1, 2021

(p) The department may not undertake any of the responsibilities or duties set forth in this section unless:

Text of subdivision effective until April 1, 2021

(1) a request is submitted by the municipality or the county in which the event will be located;

Text of subdivision effective until April 1, 2021

(2) the event meets all the requirements for funding under this section, including Subsection (a-1) of this section; and

Text of subdivision effective until April 1, 2021

(3) the request is accompanied by documentation from a site selection organization selecting the site for the event.

Text of subsection effective until April 1, 2021

(v) The department may adopt rules necessary to implement this section.

Text of subsection effective until April 1, 2021

(w) Not later than 10 months after the last day of an event eligible for disbursements from the Major Events reimbursement program fund for costs associated with the event, the department using existing resources shall complete a study in the market area of the event on the measurable economic impact directly attributable to the preparation for and presentation of the event and related activities. The department shall post on the department's Internet website:

Text of subdivision effective until April 1, 2021

(1) the results of the study conducted under this subsection, including any source documentation or other information relied on by the department for the study;

Text of subdivision effective until April 1, 2021

(2) the amount of incremental increase in tax receipts for the event determined by the department under Subsection (b) of this section;

Text of subdivision effective until April 1, 2021

(3) the site selection organization documentation described in Subsection (p)(3) of this section;

Text of subdivision effective until April 1, 2021

(4) any source documentation or information described under Subsection (i) of this section that was relied on by the department in making the determination of the amount of incremental increase in tax receipts under Subsection (b) of this section; and

Text of subdivision effective until April 1, 2021

(5) documentation verifying that:

(A) a request submitted by a local organizing committee, endorsing municipality, or endorsing county under Subsection (p) of this section is complete and certified as such by the department;

(B) the determination on the amount of incremental increases in tax receipts under Subsection (b) of this section considered the information submitted by a local organizing committee, endorsing municipality, or endorsing county as required under Subsection (b-1) of this section; and

(C) each deadline established under this section was timely met.

Text of subsection effective until April 1, 2021

(x) Subsection (w) of this section does not require disclosure of information that is confidential under Chapter 552, Government Code, or confidential or privileged under other law.

Text of subsection effective until April 1, 2021

(y) After the conclusion of an event, the department shall compare information on the actual attendance figures provided to the department under Subsection (i) of this section with the estimated attendance numbers used to determine the incremental increase in tax receipts under Subsection (b) of this section. If the actual attendance figures are significantly lower than the estimated attendance numbers, the department may reduce the amount of a disbursement for an endorsing entity under the Major Events reimbursement program fund in proportion to the discrepancy between the actual and estimated attendance and in proportion to the amount contributed to the fund by the entity. The department by rule shall define "significantly lower" for purposes of this subsection and provide the manner in which a disbursement may be proportionately reduced. This subsection does not affect the remittance of any money remaining in the fund in accordance with Subsection (m) of this section.

Sec. 5B. GUARANTEE OF STATE AND MUNICIPAL OR COUNTY OBLIGATIONS; MOTOR SPORTS RACING TRUST FUND. (a) In this section:

Text of subdivision effective until April 1, 2021

(1) "Endorsing county" means a county that contains a site selected by a site selection organization for one or more motor sports racing events.

Text of subdivision effective until April 1, 2021

(2) "Endorsing municipality" means a municipality that contains a site selected by a site selection organization for one or more motor sports racing events.

(3) "Event support contract" means a joinder undertaking, joinder agreement, or similar contract executed by an endorsing municipality or endorsing county and a site selection organization.

Text of subdivision effective until April 1, 2021

(4) "Motor sports racing event" means a specific automobile racing event sanctioned by the Automobile Competition Committee for the United States (ACCUS) and held at a temporary event venue. The term includes any events and activities held, sponsored, or endorsed by the site selection organization in conjunction with the racing event.

Text of subsection effective until April 1, 2021

(b) If a site selection organization selects a site for a motor sports racing event in this state pursuant to an application by a local organizing committee, endorsing municipality, or endorsing county, not later than three months before the date of the motor sports racing event, the department shall determine for the 30-day period that ends at the end of the day after the date on which the racing event will be held, in accordance with procedures developed by the department:

Text of subdivision effective until April 1, 2021

(1) the incremental increase in the receipts to the state from taxes imposed under Chapters 151, 152, 156, and 183, Tax Code, and under Title 5, Alcoholic Beverage Code, within the market areas designated under Subsection (c) of this section, that is directly attributable, as determined by the department, to the preparation for and presentation of the racing event;

Text of subdivision effective until April 1, 2021

(2) the incremental increase in the receipts collected by

the state on behalf of each endorsing municipality in the market area from the sales and use tax imposed by each endorsing municipality under Section 321.101(a), Tax Code, and the mixed beverage tax revenue to be received by each endorsing municipality under Section 183.051(b), Tax Code, that is directly attributable, as determined by the department, to the preparation for and presentation of the racing event;

Text of subdivision effective until April 1, 2021

(3) the incremental increase in the receipts collected by the state on behalf of each endorsing county in the market area from the sales and use tax imposed by each endorsing county under Section 323.101(a), Tax Code, and the mixed beverage tax revenue to be received by each endorsing county under Section 183.051(b), Tax Code, that is directly attributable, as determined by the department, to the preparation for and presentation of the racing event;

Text of subdivision effective until April 1, 2021

(4) the incremental increase in the receipts collected by each endorsing municipality in the market area from the hotel occupancy tax imposed under Chapter 351, Tax Code, that is directly attributable, as determined by the department, to the preparation for and presentation of the racing event; and

Text of subdivision effective until April 1, 2021

(5) the incremental increase in the receipts collected by each endorsing county in the market area from the hotel occupancy tax imposed under Chapter 352, Tax Code, that is directly attributable, as determined by the department, to the preparation for and presentation of the racing event.

Text of subsection effective until April 1, 2021

(c) For the purposes of Subsection (b)(1) of this section, the department shall designate as a market area for the motor sports racing event each area in which the department determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the racing event, including areas likely to provide venues, accommodations, and services in connection with the racing event based on a proposal or other information provided by an endorsing municipality, endorsing county, or local organizing committee to the department. The department shall determine the geographic boundaries of each market area. An endorsing municipality or endorsing county that has been

selected as the site for the racing event must be included in a market area for the racing event.

Text of subsection effective until April 1, 2021

(d) Each endorsing municipality or endorsing county shall remit to the comptroller and the comptroller shall deposit into a trust fund created by the comptroller, at the direction of the department, and designated as the Motor Sports Racing trust fund for the particular event the amount of the municipality's or county's hotel occupancy tax revenue determined by the department under Subsection (b)(4) or (5) of this section, less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county. The comptroller, at the direction of the department, shall retain the amount of sales and use tax revenue and mixed beverage tax revenue determined by the department under Subsection (b)(2) or (3) of this section from the amounts otherwise required to be sent to the municipality under Sections 321.502 and 183.051(b), Tax Code, or to the county under Sections 323.502 and 183.051(b), Tax Code, and deposit into the trust fund the tax revenues, less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county. The comptroller shall begin retaining and depositing the local tax revenues with the first distribution of that tax revenue that occurs after the first day of the 30-day period described by Subsection (b) of this section and shall discontinue retaining the local tax revenues under this subsection when the amount of the applicable tax revenue determined under Subsection (b)(2) or (3) of this section has been retained. The Motor Sports Racing trust fund is established outside the state treasury and is held in trust by the comptroller for administration of this section. Money in the trust fund may be disbursed by the department without appropriation only as provided by this section.

(e) In addition to the tax revenue deposited in the Motor Sports Racing trust fund under Subsection (d) of this section, an endorsing municipality or endorsing county may guarantee its obligations under a motor sports racing event support contract and this section by pledging surcharges from user fees, including parking or ticket fees, charged in connection with the racing event.

Text of subsection effective until April 1, 2021

(f) The comptroller, at the direction of the department, shall

transfer a portion of the state tax revenue determined by the department under Subsection (b)(1) of this section in an amount equal to 6.25 times the amount of the local sales and use tax revenue and mixed beverage tax revenue retained and the hotel occupancy tax revenue remitted by an endorsing municipality or endorsing county under Subsection (d) of this section.

Text of subsection effective until April 1, 2021

(g) To meet its obligations under a motor sports racing event support contract or event support contract to improve, renovate, or acquire facilities or to acquire equipment, an endorsing municipality by ordinance or an endorsing county by order may authorize the issuance of notes. An endorsing municipality or endorsing county may provide that the notes be paid from and secured by amounts on deposit or amounts to be transferred or deposited into the Motor Sports Racing trust fund or surcharges from user fees, including parking or ticket fees, charged in connection with the racing event. Any note issued must mature not later than seven years from its date of issuance.

(h) The funds in the Motor Sports Racing trust fund may be used to pay the principal of and interest on notes issued by an endorsing municipality or endorsing county under Subsection (g) of this section and to fulfill obligations of the state or an endorsing municipality or endorsing county to a site selection organization under a motor sports racing event support contract or event support contract, which obligations may include the payment of costs relating to the preparations necessary or desirable for the conduct of the racing event and the payment of costs of conducting the racing event, including temporary improvements or temporary renovations to existing facilities or other facilities specific to the event.

Text of subsection effective until April 1, 2021

(i) A local organizing committee, endorsing municipality, or endorsing county shall provide information required by the department to enable the department to fulfill the department's duties under this section, including annual audited statements of any financial records required by a site selection organization and data obtained by the local organizing committee, an endorsing municipality, or an endorsing county relating to attendance at the motor sports racing event and to the economic impact of the racing event. A local organizing committee, endorsing municipality, or endorsing county

must provide an annual audited financial statement required by the department, if any, not later than the end of the fourth month after the date the period covered by the financial statement ends.

Text of subsection effective until April 1, 2021

(j) The department shall provide an estimate not later than three months before the date of a motor sports racing event of the total amount of tax revenue that would be transferred to or deposited in the Motor Sports Racing trust fund under this section in connection with that racing event, if the racing event were to be held in this state at a site selected pursuant to an application by a local organizing committee, endorsing municipality, or endorsing county. The department shall provide the estimate on request to a local organizing committee, endorsing municipality, or endorsing county. A local organizing committee, endorsing municipality, or endorsing county may submit the department's estimate to a site selection organization.

Text of subsection effective until April 1, 2021

(k) The department may make a disbursement from the Motor Sports Racing trust fund on the prior approval of each contributing endorsing municipality or endorsing county for a purpose for which an endorsing municipality or endorsing county or the state is obligated under a motor sports racing event support contract or event support contract. A disbursement may not be made from the trust fund that the department determines would be used for the purpose of soliciting the relocation of a professional sports franchise located in this state.

(l) If a disbursement is made from the Motor Sports Racing trust fund under Subsection (k) of this section, the obligation shall be satisfied proportionately from the state and local revenue in the trust fund.

Text of subsection effective until April 1, 2021

(m) On payment of all state, municipal, or county obligations under a motor sports racing support contract or event support contract related to the location of any particular racing event in the state, the department shall remit to each endorsing entity, in proportion to the amount contributed by the entity, any money remaining in the trust fund.

(n) This section may not be construed as creating or requiring a state guarantee of obligations imposed on the state or an endorsing

municipality or endorsing county under a motor sports racing event support contract or other agreement relating to hosting one or more racing events in this state.

Text of subsection effective until April 1, 2021

(o) The department may not undertake any of the responsibilities or duties set forth in this section unless a request is submitted by the municipality and the county in which the motor sports racing event will be held. The request must be accompanied by documentation from a site selection organization selecting the site for the racing event.

(p) Any provision of this Act applicable to games as defined by Section 1(3) of this Act also applies to a motor sports racing event as defined in this section.

Sec. 5C. EVENTS TRUST FUND FOR CERTAIN MUNICIPALITIES AND COUNTIES. (a) In this section:

(1) "Endorsing county" means a county that contains a site selected by a site selection organization for one or more events.

(2) "Endorsing municipality" means a municipality that contains a site selected by a site selection organization for one or more events.

(3) "Event" means an event or a related series of events held in this state for which a local organizing committee, endorsing county, or endorsing municipality seeks approval from a site selection organization to hold the event at a site in this state. The term includes any activities related to or associated with the event.

(4) "Event support contract" means a joinder undertaking, a joinder agreement, or a similar contract executed by a local organizing committee, an endorsing municipality, or an endorsing county and a site selection organization.

(5) "Site selection organization" means an entity that conducts or considers conducting an eligible event in this state.

Text of subsection effective until April 1, 2021

(a-1) An event is eligible for funding under this section only if:

Text of subdivision effective until April 1, 2021

(1) a site selection organization selects a site for the event located in this state to be held one time or, for an event scheduled to be held each year for a period of years under an event

contract, or an events support contract, one time each year for the period of years, after considering, through a highly competitive selection process, one or more sites that are not located in this state;

Text of subdivision effective until April 1, 2021

(2) a site selection organization selects a site in this state as:

(A) the sole site for the event; or

(B) the sole site for the event in a region composed of this state and one or more adjoining states; and

Text of subdivision effective until April 1, 2021

(3) the event is held not more than one time in this state or an adjoining state in any year.

Text of subsection effective until April 1, 2021

(b) If a site selection organization selects a site for an event in this state pursuant to an application by a local organizing committee, endorsing municipality, or endorsing county, not later than three months before the date of the event, the department shall determine for the 30-day period that ends at the end of the day after the date on which the event will be held or, if the event occurs on more than one day, after the last date on which the event will be held, in accordance with procedures developed by the department:

Text of subdivision effective until April 1, 2021

(1) the incremental increase in the receipts to this state from taxes imposed under Chapters 151, 152, 156, and 183, Tax Code, and under Title 5, Alcoholic Beverage Code, within the market areas designated under Subsection (c) of this section, that is directly attributable, as determined by the department, to the preparation for and presentation of the event and related activities;

Text of subdivision effective until April 1, 2021

(2) the incremental increase in the receipts collected by this state on behalf of each endorsing municipality in the market area from the sales and use tax imposed by each endorsing municipality under Section 321.101(a), Tax Code, and the mixed beverage tax revenue to be received by each endorsing municipality under Section 183.051(b), Tax Code, that is directly attributable, as determined by the department, to the preparation for and presentation of the event and related activities;

Text of subdivision effective until April 1, 2021

(3) the incremental increase in the receipts collected by this state on behalf of each endorsing county in the market area from the sales and use tax imposed by each endorsing county under Section 323.101(a), Tax Code, and the mixed beverage tax revenue to be received by each endorsing county under Section 183.051(b), Tax Code, that is directly attributable, as determined by the department, to the preparation for and presentation of the event and related activities;

Text of subdivision effective until April 1, 2021

(4) the incremental increase in the receipts collected by each endorsing municipality in the market area from the hotel occupancy tax imposed under Chapter 351, Tax Code, that is directly attributable, as determined by the department, to the preparation for and presentation of the event and related activities; and

Text of subdivision effective until April 1, 2021

(5) the incremental increase in the receipts collected by each endorsing county in the market area from the hotel occupancy tax imposed under Chapter 352, Tax Code, that is directly attributable, as determined by the department, to the preparation for and presentation of the event and related activities.

Text of subsection effective until April 1, 2021

(b-1) The number of requests for funding under this section that may be submitted by an endorsing county or endorsing municipality during any 12-month period for an event for which the department determines that the total amount of the incremental increase in tax receipts under Subsection (b) of this section is less than $200,000 is limited to, during any 12-month period, not more than 10 events, only three of which may be nonsporting events.

Text of subsection effective until April 1, 2021

(c) For the purposes of Subsection (b)(1) of this section, the department shall designate as a market area for the event each area in which the department determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the event and related activities, including areas likely to provide venues, accommodations, and services in connection with the event based on the proposal provided by the local organizing committee to the department. The department shall determine the geographic boundaries of each market area. An

endorsing municipality or endorsing county that has been selected as the site for the event must be included in a market area for the event.

Text of subsection effective until April 1, 2021

(c-1) The department shall base the determination specified by Subsection (b) of this section on information submitted by the local organizing committee, endorsing municipality, or endorsing county, and must make the determination not later than the 30th day after the date the department receives the information.

Text of subsection effective until April 1, 2021

(d) Each endorsing municipality or endorsing county shall remit to the comptroller and the comptroller shall deposit into a trust fund created by the comptroller, at the direction of the department, and designated as the Events trust fund the amount of the municipality's or county's hotel occupancy tax revenue determined by the department under Subsection (b)(4) or (5) of this section, less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county. The comptroller, at the direction of the department, shall retain the amount of sales and use tax revenue and mixed beverage tax revenue determined by the department under Subsection (b)(2) or (3) of this section from the amounts otherwise required to be sent to the municipality under Sections 321.502 and 183.051(b), Tax Code, or to the county under Sections 323.502 and 183.051(b), Tax Code, and deposit into the trust fund the tax revenues, less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county. The comptroller shall begin retaining and depositing the local tax revenues with the first distribution of that tax revenue that occurs after the first day of the period described by Subsection (b) of this section or at a time otherwise determined to be practicable by the department and shall discontinue retaining the local tax revenues under this subsection when the amount of the applicable tax revenue determined by the department under Subsection (b)(2) or (3) of this section has been retained. The Events trust fund is established outside the state treasury and is held in trust by the comptroller for administration of this section. Money in the trust fund may be disbursed by the department without appropriation only as provided by this section.

Text of subsection effective until April 1, 2021

(d-1) Not later than the 90th day after the last day of an event and in lieu of the local tax revenues remitted or retained under Subsection (d) of this section, a municipality or county may remit to the department for deposit in the Events trust fund other local funds in an amount equal to the total amount of local tax revenue determined by the department under Subsections (b)(2) through (5) of this section. The amount deposited by the department into the Events trust fund under this subsection is subject to Subsection (f) of this section.

Text of subsection effective until April 1, 2021

(e) In addition to the tax revenue deposited in the Events trust fund under Subsection (d) of this section, an endorsing municipality or endorsing county may guarantee its obligations under an event support contract and this section by pledging surcharges from user fees, including parking or ticket fees, charged in connection with the event. An endorsing municipality or endorsing county may collect and remit to the department surcharges and user fees attributable to the event for deposit into the Events trust fund.

Text of subsection effective until April 1, 2021

(f) The comptroller, at the direction of the department, shall transfer into the Events trust fund a portion of the state tax revenue not to exceed the amount determined by the department under Subsection (b)(1) of this section in an amount equal to 6.25 times the amount of the local tax revenue retained or remitted under this section, including:

Text of subdivision effective until April 1, 2021

(1) local sales and use tax revenue;

Text of subdivision effective until April 1, 2021

(2) mixed beverage tax revenue;

Text of subdivision effective until April 1, 2021

(3) hotel occupancy tax revenue; and

Text of subdivision effective until April 1, 2021

(4) surcharge and user fee revenue.

Text of subsection effective until April 1, 2021

(g) To meet its obligations under an event support contract to improve, construct, renovate, or acquire facilities or to acquire

equipment, an endorsing municipality by ordinance or an endorsing county by order may authorize the issuance of notes. An endorsing municipality or endorsing county may provide that the notes be paid from and secured by amounts on deposit or amounts to be transferred or deposited into the Events trust fund or surcharges from user fees, including parking or ticket fees, charged in connection with the event. Any note issued must mature not later than seven years from its date of issuance.

Text of subsection effective until April 1, 2021

(h) The money in the Events trust fund may be used to pay the principal of and interest on notes issued by an endorsing municipality or endorsing county under Subsection (g) of this section and to fulfill obligations of this state or an endorsing municipality or endorsing county to a site selection organization under an event support contract. Subject to Subsection (k) of this section, the obligations may include the payment of costs relating to the preparations necessary for the conduct of the event and the payment of costs of conducting the event, including improvements or renovations to existing facilities or other facilities and costs of acquisition or construction of new facilities or other facilities.

Text of subsection effective until April 1, 2021

(i) A local organizing committee, endorsing municipality, or endorsing county shall provide information required by the department to enable the department to fulfill the department's duties under this section, including annual audited statements of any financial records required by a site selection organization and data obtained by the local organizing committee, an endorsing municipality, or an endorsing county relating to attendance at the event, including an estimate of the number of people expected to attend the event who are not residents of this state, and to the economic impact of the event. A local organizing committee, endorsing municipality, or endorsing county must provide an annual audited financial statement required by the department, if any, not later than the end of the fourth month after the date the period covered by the financial statement ends. After the conclusion of an event and on the department's request, a local organizing committee, endorsing municipality, or endorsing county must provide information relating to the event, such as attendance figures, including an estimate of the number of people who are not residents of this state who attended the event, financial

information, or other public information held by the local organizing committee, endorsing municipality, or endorsing county that the department considers necessary.

Text of subsection effective until April 1, 2021

(j) The department shall provide an estimate not later than three months before the date of an event of the total amount of tax revenue that would be transferred into or deposited in the Events trust fund under this section in connection with that event, if the event were to be held in this state at a site selected pursuant to an application by a local organizing committee, endorsing municipality, or endorsing county. The department shall provide the estimate on request to a local organizing committee, endorsing municipality, or endorsing county. A local organizing committee, endorsing municipality, or endorsing county may submit the department's estimate to a site selection organization.

Text of subsection effective until April 1, 2021

(k) The department may make a disbursement from the Events trust fund on the prior approval of each contributing endorsing municipality or endorsing county for a purpose for which a local organizing committee, an endorsing municipality, or an endorsing county or this state is obligated under an event support contract, including an obligation to pay costs incurred in the conduct of the event and costs incurred in making preparations necessary for the event. If an obligation is incurred under an event support contract to make a structural improvement to the site or to add a fixture to the site for purposes of an event and that improvement or fixture is expected to derive most of its value in subsequent uses of the site for future events, a disbursement from the trust fund made for purposes of that obligation is limited to five percent of the cost of the improvement or fixture and the remainder of the obligation is not eligible for a disbursement from the trust fund, unless the improvement or fixture is for a publicly owned facility. In considering whether to make a disbursement from the trust fund, the department may not consider a contingency clause in an event support contract as relieving a local organizing committee's, endorsing municipality's, or endorsing county's obligation to pay a cost under the contract.

Text of subsection effective until April 1, 2021

(k-1) A disbursement may not be made from the trust fund that

the department determines would be used for the purpose of:

Text of subdivision effective until April 1, 2021

(1) soliciting the relocation of a professional sports franchise located in this state;

Text of subdivision effective until April 1, 2021

(2) constructing an arena, stadium, or convention center; or

Text of subdivision effective until April 1, 2021

(3) conducting usual and customary maintenance of a facility.

Text of subsection effective until April 1, 2021

(k-2) Subsection (k-1) of this section does not prohibit:

Text of subdivision effective until April 1, 2021

(1) a disbursement from the trust fund for the construction of temporary structures within an arena, stadium, or convention, if those temporary structures are necessary for the conduct of the event; or

Text of subdivision effective until April 1, 2021

(2) temporary maintenance of a facility that is necessary for the preparation for or conduct of the event.

(l) If a disbursement is made from the Events trust fund under Subsection (k) of this section, the obligation shall be satisfied proportionately from the state and local revenue in the trust fund.

Text of subsection effective until April 1, 2021

(m) On payment of all state, municipal, or county obligations under an event support contract related to the location of any particular event in this state, the department shall remit to each endorsing entity, in proportion to the amount contributed by the entity, any money remaining in the Events trust fund.

Text of subsection effective until April 1, 2021

(n) This section may not be construed as creating or requiring a state guarantee of obligations imposed on this state or an endorsing municipality or endorsing county under an event support contract or other agreement relating to hosting one or more events in this state.

Text of subsection effective until April 1, 2021

(o) The department may not undertake any of the

responsibilities or duties set forth in this section unless a request is submitted by the municipality or the county in which the event will be located. The request must be accompanied by documentation from a site selection organization selecting the site for the event.

Text of subsection effective until April 1, 2021

(p) The department may adopt rules necessary to implement this section.

Text of subsection effective until April 1, 2021

(q) In determining the amount of state revenue available under Subsection (b)(1) of this section, the department may consider whether:

Text of subdivision effective until April 1, 2021

(1) the event has been held in this state on previous occasions; and

Text of subdivision effective until April 1, 2021

(2) changes to the character of the event could affect the incremental increase in receipts collected and remitted to the state by an endorsing county or endorsing municipality under that subsection.

Text of subsection effective until April 1, 2021

(r) The department may adopt a model event support contract and make the contract available on the department's Internet website. The adoption by the department of a model event support contract under this subsection does not require use of the model event support contract for purposes of this section.

Text of subsection effective until April 1, 2021

(s) Repealed by Acts 2015, 84th Leg., R.S., Ch. 948 , Sec. 12(1), eff. September 1, 2015.

Text of subsection effective until April 1, 2021

(t) After the conclusion of an event, the department shall compare information on the actual attendance figures provided to the department under Subsection (i) of this section with the estimated attendance numbers used to determine the incremental increase in tax receipts under Subsection (b) of this section. If the actual attendance figures are significantly lower than the estimated attendance numbers, the department may reduce the amount of a disbursement for an endorsing entity under the Events trust fund in proportion to the discrepancy between the actual and estimated

attendance and in proportion to the amount contributed to the fund by the entity. The department by rule shall define "significantly lower" for purposes of this subsection and provide the manner in which a disbursement may be proportionately reduced. This subsection does not affect the remittance of any money remaining in the fund in accordance with Subsection (m) of this section.

Sec. 6. MUNICIPAL OR COUNTY ELECTION. (a) Except as provided by Subsections (b) and (d) of this section, an endorsing municipality or endorsing county must hold an election in the municipality or county to determine whether the municipality or county may contribute a portion of its sales and use taxes to the Olympic Games trust fund under Section 5 of this Act. The election must be held on a uniform election date before the date a site selection organization requires the endorsing municipality or endorsing county and the state to enter into a joinder undertaking relating to the applicable games.

Text of subsection effective until April 1, 2021

(b) If an endorsing municipality or endorsing county is required to hold an election under this section and the contribution of a portion of the municipality's or county's sales and use taxes to the Olympic Games trust fund under Section 5 of this Act is not approved by a majority of the voters voting in the election:

Text of subdivision effective until April 1, 2021

(1) the comptroller may not establish the Olympic Games trust fund under Section 5 of this Act, may not retain the municipality's or county's tax revenue under Section 5(d) of this Act from amounts otherwise required to be sent to that municipality or county, and may not transfer any state tax revenue into the trust fund;

Text of subdivision effective until April 1, 2021

(2) the department is not required to determine the incremental increase in state, county, or municipal tax revenue under Section 5(b) of this Act; and

Text of subdivision effective until April 1, 2021

(3) the department may not enter into a games support contract relating to the games for which the municipality or county has authorized a bid on its behalf.

(c) Notwithstanding any other provisions of this Act, an endorsing municipality or endorsing county is not required to hold an election in order to contribute its mixed beverage tax revenue or its

hotel occupancy tax revenue to the Olympic Games trust fund under Section 5 of this Act.

Text of subsection effective until April 1, 2021

Sec. 7. ASSISTANCE OF DEPARTMENT AND OTHER STATE AGENCIES. (a) The department shall review requests from a local organizing committee, endorsing municipality, or endorsing county that the department, on behalf of the state, enter into a games support contract that is required by a site selection organization in connection with the committee's, municipality's, or county's bid to host any of the games. This section does not affect or apply to an event support contract under Section 5A, 5B, or 5C of this Act to which the department is not a party.

(b) A request made under Subsection (a) of this section must be accompanied by:

(1) a general description and summary of the games for which a site selection is sought by the local organizing committee, endorsing municipality, or endorsing county;

(2) a preliminary and general description of the proposal the local organizing committee, endorsing municipality, or endorsing county intends to submit to a site selection organization;

(3) the estimated cost of preparing and submitting the intended proposal;

(4) the local organizing committee's, endorsing municipality's, or endorsing county's intended method of obtaining the funds needed for the purpose of preparing the proposal;

(5) a description by type and approximate amount of the site selection application costs that the local organizing committee, endorsing municipality, or endorsing county intends to pay; and

(6) any other information reasonably requested by the department to assist it in reviewing the request.

(c) The department shall approve or deny a request made under Subsection (a) of this section not later than the 30th day after the date the request is submitted.

(d) The department may agree in a joinder undertaking entered into with a site selection organization that the department will:

(1) execute a joinder agreement if the site selection organization selects a site in this state for the games; and

(2) refrain from taking any action after the execution of the joinder undertaking that would impair its ability to execute the joinder agreement.

(e) The department may agree in a joinder agreement that the state will:

(1) provide or cause to be provided all of the governmental funding, facilities, and other resources specified in the local organizing committee's, endorsing municipality's, or endorsing county's bid to host the games;

(2) be bound by the terms of, cause the local organizing committee, endorsing municipality, or endorsing county to perform, and guarantee performance of the local organizing committee's, endorsing municipality's, or endorsing county's obligations under contracts relating to selecting a site in this state for the games; and

(3) be jointly and severally liable with the local organizing committee, endorsing municipality, or endorsing county for:

(A) obligations of the local organizing committee, endorsing municipality, or endorsing county to a site selection organization, including obligations indemnifying the site selection organization against claims of and liabilities to third parties arising out of or relating to the games; and

(B) any financial deficit relating to the games.

(f) The department may agree to execute a joinder undertaking, a joinder agreement, or other games support contract only if:

(1) the department determines that:

(A) the state's assurances and obligations under the undertaking, agreement, or contract are reasonable; and

(B) any financial commitments of the state will be satisfied exclusively by recourse to the Pan American Games trust fund or the Olympic Games trust fund, as applicable; and

(2) the endorsing municipality or endorsing county has executed an agreement with a site selection organization that contains substantially similar terms.

(g) Before executing a games support contract, the department must execute an agreement with the local organizing committee, endorsing municipality, or endorsing county requiring that if a site selection organization selects a site for the games in this state pursuant to an application by the local organizing committee, endorsing municipality, or endorsing county, the local organizing committee, endorsing municipality, or endorsing county will repay the state any funds expended by the department under this Act from any surplus of the local organizing committee's, endorsing

municipality's, or endorsing county's funds remaining after the presentation of the games and after the payment of the expenses and obligations incurred by the local organizing committee, endorsing municipality, or endorsing county.

(h) A games support contract may contain any additional provisions the department requires in order to carry out the purposes of this Act.

(i) The department may require a local organizing committee, endorsing municipality, or endorsing county to list the state as an additional insured on any policy of insurance purchased by the local organizing committee, endorsing municipality, or endorsing county and required by a site selection organization to be in effect in connection with the games.

(j) The Texas Department of Transportation, the Department of Public Safety of the State of Texas, and the Texas Department of Housing and Community Affairs may:

(1) assist a local organizing committee, endorsing municipality, or endorsing county in developing applications and planning for the games; and

(2) enter into contracts, agreements, or assurances related to the presentation of the games.

(k) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 5.09.

Sec. 8. APPLICATION OF OPEN MEETINGS AND OPEN RECORDS LAWS. (a) A local organizing committee and its governing body are subject to Chapters 551 and 552, Government Code. For purposes of those chapters, the governing body of a local organizing committee is considered a governmental body as defined by those chapters. For purposes of Chapter 552, Government Code, the records and information of a local organizing committee are considered public records and public information.

(b) A final bid that is submitted by a local organizing committee to a site selection organization, or a draft of that bid, is excepted from required public disclosure under Chapter 552, Government Code, until the applicable site selection organization selects the site for the applicable games.

(c) Chapter 551, Government Code, does not apply to a meeting of a subcommittee of the governing body of a local organizing committee if:

(1) the subcommittee consists of not more than five members;

(2) the meeting is not held in a public building;

(3) the subcommittee makes a tape recording of the proceedings of the meeting in compliance with Section 551.103, Government Code, and the local organizing committee preserves the tape recording for two years from the date the recording is made;

(4) the subcommittee does not discuss or decide any financial matters during the meeting; and

(5) any decision made by the subcommittee will not become effective without being reviewed and officially adopted by the governing body of the local organizing committee at a meeting held in compliance with Chapter 551, Government Code.

(d) A tape recording made under Subsection (c) of this section is subject to required public disclosure in the manner prescribed by Chapter 552, Government Code, for a public record.

Sec. 9. TAX EXEMPTIONS FOR LOCAL ORGANIZING COMMITTEE. (a) A local organizing committee that is exempt from paying federal income tax under Section 501(c), Internal Revenue Code of 1986, as amended, is exempt from:

(1) the sales, excise, and use taxes imposed under Chapter 151, Tax Code;

(2) taxes on the sale, rental, or use of a motor vehicle imposed under Chapter 152, Tax Code;

(3) the hotel occupancy tax imposed under Chapter 156, Tax Code; and

(4) the franchise tax imposed under Chapter 171, Tax Code.

(b) The exemptions provided by Subsections (a)(1), (2), and (3) of this section take effect on the first day of the first month after the effective date of this Act. The exemption provided by Subsection (a)(4) of this section applies only to a tax imposed under Chapter 171, Tax Code, that becomes due on or after the effective date of this Act.

Sec. 10. ETHICS. (a) A local organizing committee that submits a request under Section 7(a) of this Act must:

(1) affirm as a part of that request that it is fully in compliance with the ethical guidelines set forth in all contracts entered into and rules adopted by the applicable site selection organization, including the site selection organization's requirements regarding disclosure of any financial interest by a director, officer, or senior-level employee of the local organizing committee in any proposed transaction with the local organizing committee;

(2) not later than the 15th day of the first month following each calendar quarter, file with the secretary of the endorsing municipality for which the local organizing committee submits a request:

(A) a certification that the local organizing committee continues to be in compliance with the ethical guidelines described by Subdivision (1) of this subsection; and

(B) a report of contributions to and expenditures by the local organizing committee in the manner described by Subsection (b) of this section; and

(3) file with the secretary of the endorsing municipality on April 15 of each year a copy of each financial statement required to be submitted by a local organizing committee or a member of a local organizing committee to the United States Olympic Committee during the preceding calendar year.

(b) A report made under Subsection (a)(2)(B) of this section must include:

(1) for each contribution made to a local organizing committee:

(A) the contributor's full name and address;

(B) the date of the contribution;

(C) whether the contribution is cash, made by check, or in-kind; and

(D) the amount or market value of the contribution; and

(2) for each expenditure made by a local organizing committee:

(A) the full name and address of the person who receives payment of the expenditure;

(B) the date of the expenditure;

(C) the purpose of the expenditure; and

(D) the amount of the expenditure.

(c) The endorsing municipality for which a local organizing committee submits a request under Section 7(a) of this Act must have a comprehensive ethics code establishing standards of conduct, disclosure requirements, and enforcement mechanisms relating to city officials and employees before the department may consider the request.

Sec. 11. BRIBERY. (a) A person commits an offense if the person intentionally or knowingly offers, confers, or agrees to confer on another person, or solicits, accepts, or agrees to accept from another person, any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of

discretion as a member or employee of a local organizing committee or site selection organization.

(b) It is a defense to prosecution under Subsection (a) of this section that the benefit conferred is a meal or entertainment reported under Section 10(a)(2)(B) of this Act.

(c) It is not a defense to prosecution under Subsection (a) of this section that a person whom the actor sought to influence was not qualified to act as the actor intended the person to act.

(d) It is not a defense to prosecution under Subsection (a) of this section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:

(1) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or

(2) the person whom the actor sought to influence is no longer a member of the local organizing committee or a site selection organization.

(e) In this section, "benefit" has the meaning assigned by Section 36.01, Penal Code.

(f) An offense under this section is a felony of the second degree.

Sec. 12. LOCAL GOVERNMENT CORPORATION AS ENDORSING MUNICIPALITY OR COUNTY. (a) This section applies only to a local government corporation that:

(1) is authorized to collect a municipal hotel occupancy tax; and

(2) is located in a county with a population of 3.3 million or more.

(b) A local government corporation may act as an endorsing municipality or endorsing county under this Act.

(c) A local government corporation acting as an endorsing municipality or endorsing county under this Act shall remit for deposit into the trust fund established for the games or event the amounts determined by the comptroller under this Act. The comptroller shall determine the incremental increase in receipts attributable to the games or event and related activities under that chapter based on the amount of applicable taxes imposed by each municipality or county that comprises the local government corporation and not on the amount of taxes imposed by the local government corporation.

(d) A local government corporation acting as an endorsing

municipality or endorsing county under this Act may guarantee the local government corporation's obligations under a games or event support contract by pledging surcharges from user fees, including parking or ticket fees, charged in connection with the games or event and related activities.

(e) Subject to Subsection (c), a local government corporation acting as an endorsing municipality or endorsing county under this Act, as authorized by this section, has all the powers of an endorsing municipality or endorsing county under this Act, and any action an endorsing municipality or endorsing county is required to take by ordinance or order under this Act may be taken by order or resolution of the local government corporation.

Acts 1999, 76th Leg., ch. 1507, eff. Aug. 30, 1999; Sec. 1(2) amended by Acts 2003, 78th Leg., ch. 579, Sec. 1, eff. June 20, 2003; Sec. 1(3) amended by Acts 2003, 78th Leg., ch. 579, Sec. 1, eff. June 20, 2003; Sec. 3 amended by Acts 2003, 78th Leg., ch. 579, Sec. 2, eff. June 20, 2003; Sec. 4(a)(1) amended by Acts 2003, 78th Leg., ch. 579, Sec. 3, eff. June 20, 2003; Sec. 4(i) amended by Acts 2003, 78th Leg., ch. 579, Sec. 4, eff. June 20, 2003; Sec. 4(l) amended by Acts 2003, 78th Leg., ch. 579, Sec. 4, eff. June 20, 2003; Sec. 6(b) amended by Acts 2003, 78th Leg., ch. 579, Sec. 5, eff. June 20, 2003; Sec. 1(1) to (3), (5) to (8) amended and (1-a) added by Acts 2003, 78th Leg., ch. 814, Sec. 5.01, eff. Sept. 1, 2003; Secs. 2, 3 amended by Acts 2003, 78th Leg., ch. 814, Sec. 5.02, eff. Sept. 1, 2003; Sec. 4(a), (b), (d), (f), (i), (l) amended by Acts 2003, 78th Leg., ch. 814, Sec. 5.03, eff. Sept. 1, 2003; Sec. 5(a) to (g), (i) to (m) amended by Acts 2003, 78th Leg., ch. 814, Sec. 5.04, eff. Sept. 1, 2003; Sec. 5A added by Acts 2003, 78th Leg., ch. 814, Sec. 5.05, eff. Sept. 1, 2003; Sec. 6 amended by Acts 2003, 78th Leg., ch. 814, Sec. 5.06, eff. Sept. 1, 2003; Sec. 7(a), (b), (e) to (g), (i), (j) amended by Acts 2003, 78th Leg., ch. 814, Sec. 5.07, eff. Sept. 1, 2003; Sec. 7(k) amended by Acts 2003, 78th Leg., ch. 814, Sec. 5.09, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 150 (H.B. 1528), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 295 (S.B. 150), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 295 (S.B. 150), Sec. 2, eff. September

1, 2005.

Acts 2005, 79th Leg., Ch. 295 (S.B. 150), Sec. 3, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 295 (S.B. 150), Sec. 4, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 295 (S.B. 150), Sec. 5, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 866 (S.B. 1038), Sec. 1, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 866 (S.B. 1038), Sec. 2, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 556 (S.B. 1424), Sec. 1, eff. June 16, 2007.

Acts 2007, 80th Leg., R.S., Ch. 556 (S.B. 1424), Sec. 2, eff. June 16, 2007.

Acts 2007, 80th Leg., R.S., Ch. 556 (S.B. 1424), Sec. 3, eff. June 16, 2007.

Acts 2007, 80th Leg., R.S., Ch. 556 (S.B. 1424), Sec. 4, eff. June 16, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1426 (S.B. 1523), Sec. 3, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1426 (S.B. 1523), Sec. 4, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1426 (S.B. 1523), Sec. 5, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 810 (S.B. 1515), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 810 (S.B. 1515), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 810 (S.B. 1515), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 810 (S.B. 1515), Sec. 4, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 810 (S.B. 1515), Sec. 5, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 810 (S.B. 1515), Sec. 6, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 810 (S.B. 1515), Sec. 7, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 810 (S.B. 1515), Sec. 8, eff.

September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 9 (S.B. 309), Sec. 1, eff. April 29, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 9 (S.B. 309), Sec. 2, eff. April 29, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 3 (S.B. 398), Sec. 1, eff. April 17, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1371 (S.B. 1678), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1371 (S.B. 1678), Sec. 2, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1371 (S.B. 1678), Sec. 3, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1371 (S.B. 1678), Sec. 4, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 2 (S.B. 293), Sec. 1, eff. April 8, 2015.

Acts 2015, 84th Leg., R.S., Ch. 915 (H.B. 26), Sec. 4.01, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 915 (H.B. 26), Sec. 4.02, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 948 (S.B. 633), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 948 (S.B. 633), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 948 (S.B. 633), Sec. 3, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 948 (S.B. 633), Sec. 4, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 948 (S.B. 633), Sec. 5, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 948 (S.B. 633), Sec. 6, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 948 (S.B. 633), Sec. 7, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 948 (S.B. 633), Sec. 8, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 948 (S.B. 633), Sec. 9, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 948 (S.B. 633), Sec. 10, eff.

September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 948 (S.B. 633), Sec. 11, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 948 (S.B. 633), Sec. 12(1), eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 610 (H.B. 3294), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 610 (H.B. 3294), Sec. 2, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 3.01, eff. April 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1223 (H.B. 2402), Sec. 1, eff. June 14, 2019.

CHAPTER 12. RESTRICTIONS ON LABOR

Art. 5196. DISCRIMINATION. Either or any of the following acts shall constitute discrimination against persons seeking employment:

1. Where any corporation, or receiver of the same, doing business in this state, or any agent or officer of any such corporation or receiver, shall blacklist, prevent, or attempt to prevent, by word, printing, sign, list or other means, directly or indirectly, any discharged employee, or any employee who may have voluntarily left said corporation's services, from obtaining employment with any other person, company, or corporation, except by truthfully stating in writing, on request of such former employee or other persons to whom such former employee has applied for employment, the reason why such employee was discharged, and why his relationship to such company ceased.

2. Where any corporation, or receiver of the same, doing business in this state, or any officer or agent of such corporation or receiver shall, by any means, directly or indirectly, communicate to any other person or corporation any information in regard to a person who may seek employment of such person or corporation, and fails to give such person in regard to whom the communication may be made, within ten days after demand therefor, a complete copy of such communication, if in writing, and a true statement thereof if by sign or other means not in writing, and the names and addresses of all persons or corporations to whom said communication shall have been made; provided that if such information is furnished at the request

of a person other than the employee, a copy of the information so furnished, shall be mailed to such employee at his last known address.

3. Where any corporation, or receiver of the same, doing business in this state, or any agent or employee of such corporation or receiver, shall have discharged an employee and such employee demands a statement in writing of the cause of his discharge, and such corporation, receiver, agent or employee thereof fails to furnish a true statement of the same to such discharged employee, within ten days after such demand, or where any corporation or receiver of the same, or any officer or agent of such corporation or receiver shall fail, within ten days after written demand for the same, to furnish to any employee voluntarily leaving the service of such corporation or receiver, a statement in writing that such employee did leave such service voluntarily, or where any corporation or receiver of the same, doing business within this state, shall fail to show in any statement under the provision of this title the number of years and months during which such employee was in the service of the said corporation or receiver in each and every separate capacity or position in which he was employed, and whether his services were satisfactory in each such capacity or not, or where any such corporation or receiver shall fail within ten days after written demand for the same to furnish to any such employee a true copy of the statement originally given to such employee for his use in case he shall have lost or is otherwise deprived of the use of the said original statement.

4. Where any corporation, or receiver of same, doing business in this state, or any agent or officer of the same, shall have received any request, notice or communication, either in writing or otherwise, from any person, company or corporation, preventing, or calculated to prevent, the employment of a person seeking employment, and shall fail to furnish to such person seeking employment, within ten days after a demand in writing therefor, a true statement of such request, notice or communication, and, if in writing, a true copy of same, and, if otherwise than in writing, a true statement thereof, and a true interpretation of its meaning, and the names and addresses of the persons, company or corporation furnishing the same.

5. Where any corporation, or receiver of the same, doing business in this state, or any officer or agent of such corporation or receiver, discharging an employee, shall have failed to give such

employee a true statement of the causes of his discharge, within ten days after a demand in writing therefor, and shall thereafter furnish any other person or corporation any statement or communication in regard to such discharge, unless at the request of the discharged employee.

6. Where any corporation, or receiver of same, doing business in this state, or any officer or agent of such corporation or receiver, shall discriminate against any person seeking employment on account of his having participated in a strike.

7. Where any corporation, or receiver of the same, doing business in this state, or any officer or agent of such corporation or receiver, shall give any information or communication in regard to a person seeking employment having participated in any strike, unless such person violated the law during his participation in such strike, or in connection therewith, and unless such information is given in compliance with subdivision 1 of this article.

Acts 1907, 30th Leg., p. 142, ch. 67, Sec. 1. Amended by Acts 1909, 31st Leg., p. 160, ch. 89, Sec. 1; Acts 1929, 41st Leg., p. 509, ch. 245, Sec. 1.

Art. 5196a. DISCRIMINATION. The following shall constitute discrimination against persons seeking employment: Where any corporation, or receiver of same, doing business in this State, or any officer or agent of such corporation or receiver shall discriminate against any person seeking employment on account of his having participated in a strike.

Acts 1907, 30th Leg., p. 142, ch. 67. Amended by Acts 1909, 31st Leg., p. 160.

Art. 5196b. PENALTY. Every person violating any provision of the preceding article shall be imprisoned in jail for not less than one month nor more than one year.

Acts 1907, 30th Leg., p. 142, ch. 67. Amended by Acts 1909, 31st Leg., p. 160, ch. 89.

Art. 5197. DISCRIMINATION PROHIBITED, ETC. Any and all discriminations against persons seeking employment as defined in this chapter are hereby prohibited and are declared to be illegal.

Acts 1907, 31st Leg., p. 142.

Art. 5198. FOREIGN CORPORATIONS TO FORFEIT PERMIT. Any foreign corporation violating any provision of this chapter is hereby denied the right, and is prohibited from doing any business within this State, and it shall be the duty of the Attorney General to enforce this provision, by injunction or other proceeding in the district court of Travis County, in the name of the State of Texas.

Acts 1907, 30th Leg., p. 142.

Art. 5199. LIABILITY. Each person, company or corporation, who shall in any manner violate any provision of this chapter shall, for each offense committed, forfeit and pay the sum of one thousand dollars, which may be recovered in the name of the State of Texas, in any county where the offense was committed, or where the offender resides, or in Travis County; and it shall be the duty of the Attorney General, or the district or county attorney under the direction of the Attorney General, to sue for the recovery of the same.

Acts 1907, 30th Leg., p. 142.

Art. 5200. FEES OF ATTORNEY. The fees of the prosecuting attorney for representing the State in proceedings under this chapter shall not be accounted for as fees of office.

Acts 1907, 30th Leg., p. 142.

Art. 5201. PRIMA FACIE EVIDENCE OF AGENCY. In prosecutions for the violation of any provision of this chapter, evidence that any person has acted as the agent of a corporation in the transaction of its business in this State shall be received as prima facie proof

that his act in the name, behalf or interest of the corporation of which he was acting as the agent, was the act of the corporation.

Acts 1907, 30th Leg., p. 142.

Art. 5201a. PRIMA FACIE PROOF OF AGENCY. Evidence that any person has acted as the agent of a corporation in the transaction of its business in this State shall be received as prima facie proof that his act in the name, behalf or interest of the corporation of which he was acting as the agent, was the act of the corporation.

Acts 1907, 30th Leg., p. 142, ch. 67. Amended by Acts 1909, 31st Leg., p. 160.

Art. 5202. MAY EXAMINE WITNESSES. Upon the application of the Attorney General, or of any district or county attorney, made to any justice of the peace in this State, and stating that he has reason to believe that a witness, who is to be found in the county of which such justice is an officer, knows of a violation of any provision of this chapter, the justice to whom such application is made shall have summoned and examined such witness in relation to such violations.

Acts 1907, 30th Leg., p. 142.

Art. 5203. SWORN STATEMENT. Such witness shall be summoned as provided for in criminal cases. He shall be duly sworn, and the justice shall cause the statements of the witness to be reduced to writing and signed and sworn to before him, and such statement shall be delivered to the attorney upon whose application the witness was summoned.

Acts 1907, 30th Leg., p. 142.

Art. 5204. FAILURE OF WITNESS TO APPEAR. If the witness summoned as aforesaid fails to appear or to make statements of the facts within his knowledge under oath, or to sign the same after it has been reduced to writing, he shall be guilty of contempt of court

and may be fined not exceeding one hundred dollars, and may be attached and imprisoned in jail until he shall make a full statement of all facts within his knowledge with reference to the matter inquired about.

Acts 1907, 30th Leg., p. 142.

Art. 5205. IMMUNITY OF WITNESS. Any person so summoned and examined shall not be liable to prosecution for any violation of any provision of this chapter about which he may testify fully and without reserve.

Acts 1907, 30th Leg., p. 142.

Art. 5205a. WITNESS MUST TESTIFY. No witness shall refuse to testify as to any violation of this chapter on the ground that his testimony may incriminate him, but any witness so examined shall not be liable to prosecution for any violation of any provision of this chapter about which he may testify fully and without reserve.

Acts 1907, 30th Leg., p. 142, ch. 67.

Art. 5206. STATEMENT OF CAUSE OF DISCHARGE. Any written statement of cause of discharge, if true, when made by such agent, company or corporation, shall never be used as the cause for an action for libel, either civil or criminal, against the agent, company or corporation so furnishing same.

Acts 1907, 30th Leg., p. 142.

TITLE 86. LANDS--PUBLIC
CHAPTER 3. SURFACE AND TIMBER RIGHTS

Art. 5326i. REINSTATEMENT OF PURCHASES IN HUTCHINSON COUNTY.

Sec. 1. In cases where lands belonging to the Public Free School Funds located in Hutchinson County, Texas, stand forfeited on the records of the General Land Office, and where said forfeitures have

been made by the Commissioner of the General Land Office after September 1, 1942, and prior to February 1, 1943, and where such lands have been used or occupied by the original purchaser of said lands from the State of Texas for a continuous period of twenty-seven years or more, the said forfeitures may be set aside and the original purchases re-instated by the said Commissioner upon the payment of all moneys due and owing on such land, including interest and principal; providing that such re-instatement shall not be effective as to any intervening rights of third parties.

Sec. 2. In cases where lands belonging to the Public Free School Fund located in Hardeman County stand forfeited on the records of the General Land Office and said forfeitures having been made by the Commissioner of the General Land Office prior to September 25, 1943, and after January 1, 1943, and where the lands have been improved by the present occupant or user to the extent of One Hundred ($100.00) Dollars or more, the said forfeitures may be set aside and the original purchases re-instated by the said Commissioner upon payment of all moneys due and owing on such land, including interest and principal; providing that such reinstatement shall not be effective as to any intervening rights of third parties.

Sec. 3. If any section, sub-section, clause, sentence, or provision of this Act, for any reason, be held to be invalid or unconstitutional, it shall not affect in any wise the remaining provisions of this Act not so held, and all that portion not so held invalid shall remain in full force and effect; it being the express intention of the Legislature to enact such Act without respect to such section, sub-section, clause, sentence, or provision, or a part thereof, so held to be invalid or unconstitutional.

Acts 1950, 51st Leg., 1st C.S., p. 84, ch. 21.

Art. 5330a. REGULATING SALE AND PATENTING OF LANDS FORMERLY PART OF OKLAHOMA; SPECIAL LAND BOARD ABOLISHED; POWERS AND DUTIES OF GENERAL LAND OFFICE.

Sec. 1. LAND OFFERED TO CLAIMANTS; CONSIDERATION. All of the lands along the 100th degree of west longitude on the East side of the Panhandle of the State of Texas and the west side of the State of Oklahoma, found to be in the State of Texas by the final decree of

the Supreme Court of the United States, entered March 17th, 1930, in the case of the State of Oklahoma vs. the State of Texas, the United States of America, Intervenor, theretofore claimed by Oklahoma but now located in Lipscomb, Hemphill, Wheeler, Collingsworth and Childress Counties, are hereby offered for sale to the claimants of said lands as reflected by the Deed Records or other public records of the State of Oklahoma and under the laws of the State of Oklahoma at the time of the rendition of said decree by the Supreme Court of the United States, and said lands shall be sold to such claimants as would have then owned said lands had the same been a part of Oklahoma, or who have acquired or may hereafter acquire title by foreclosure of a line valid and enforceable under the laws of Oklahoma at the time of the rendition of such decree. The consideration for such sale shall be the sum of One ($1.00) Dollar per acre.

Sec. 2. SPECIAL LAND BOARD ABOLISHED; TRANSFER OF RIGHTS AND DUTIES. The rights and duties of the Special Land Board are transferred to the General Land Office, and the Special Land Board is abolished. The General Land Office shall have the power to ascertain the bona fide claimants of said lands as shown by the public records and under the laws of the State of Oklahoma, to make such surveys and investigations as may be necessary to carry out the provisions of this Act, and to adopt such rules, regulations and forms as it may deem expedient.

Sec. 3. APPLICATION; FEE; INVESTIGATION AND AWARD. Any claimant to any portion of said lands who would have had title to same had it been located in Oklahoma, may make application to the Commissioner of the General Land Office to purchase the land claimed. Such application shall be accompanied by field notes of the tract claimed, together with a filing fee of One ($1.00) Dollar, an examination fee of Fifteen (.15¢) Cents per acre, and with such other information as the Land Board may require to be given, including certified copies of all muniments of title under the laws of Oklahoma. Upon receipt of such application the Land Board shall cause an investigation to be made as to the status of the public records of the State of Oklahoma, and in event it is found that the applicant would have been the owner of said land at the time of the decree of the Supreme Court of the United States had the same been located in Oklahoma, or holds title by reason of foreclosure of a lien valid and enforceable under the laws of Oklahoma at the time of

such decree of the Supreme Court of the United States, such application shall be approved, and said land awarded to said applicant. Within sixty days after such award such applicant shall pay to the Commissioner of the General Land Office the sum of One ($1.00) Dollar per acre for said land, and upon receipt of such payment the Commissioner of the General Land Office shall issue to the claimant a patent to said lands in such form as the Land Commissioner shall prescribe.

Sec. 4. SALE TO LIEN HOLDER. In event the claimant fails or refuses to purchase same or to apply for a patent as provided for herein, then the holder of a lien against any of said lands may make such purchase or apply for such patent on behalf of said owner and pay the consideration provided for, and all fees and expenses, and such amounts when paid by such lien holder shall be added to and become a part of the total amount secured by the lien. A failure on the part of the said owner to make purchase, or application for patent, for a period of four months after the last publication by said Land Board as provided in this Act shall constitute such failure to apply as will warrant the lien holder in making such application to purchase. The patent issued upon application and purchase of a lien holder shall be in the name of the person, persons or company who would have owned said lands had the same been a part of Oklahoma.

Sec. 5. RECORDING DEEDS, MORTGAGES, ETC.; EVIDENCE; FORCE AND EFFECT. All deeds, mortgages, contracts and instruments of every nature, or in case of loss of any such instrument a certified copy from the record in the Oklahoma County may be so used, affecting the title to said lands, or that would have formed a part of the chain of title to the same under the laws of the State of Oklahoma, and now of record on the public records of the State of Oklahoma, may be filed and recorded in the county in Texas in which the land is now located. All deeds, mortgages, conveyances and all other instruments which would be valid under the laws of the State of Oklahoma and admissible in evidence under the laws of said State, shall be valid in Texas and shall be admissible in evidence in any court in this State, and copies of said instruments certified as provided by the laws of Oklahoma, as well as the originals thereof, may be introduced in evidence in the same manner as if executed with the formalities required by the laws of the State of Texas, and as if certified as required by the laws of this State. All such deeds, deeds of trust, mortgages, conveyances and contracts, affecting the title to any of

said lands shall be given the same force and effect in the State of Texas as same would have been given in the State of Oklahoma, and all bona fide liens, incumbrances, or debentures, now outstanding and unsatisfied, and existing against said lands at the time of the rendition of said decision of the Supreme Court of the United States are here expressly validated, save and except as to purchase money due to the State of Oklahoma, or the United States, and except taxes, general or special, due to the State of Oklahoma, or any city, county, school district or other political subdivision of the State of Oklahoma. In determining whether any lien against said land shall be enforced, the period of time intervening between the rendition of the decision by the Supreme Court of the United States and the issuance of a patent to the land involved by the State of Texas, shall not be computed in applying the Statutes of Limitation of either the State of Oklahoma or the State of Texas, and this Act shall be liberally construed in the enforcement of liens against said land, it being the intention of the Legislature that all sections and parts hereof are independent of each other, and if any section or part hereof be held unconstitutional such invalid section shall not affect the remaining sections or parts hereof.

Sec. 6. DEPOSIT AND USE OF FEES. The examination fees provided for in Section 3 of this Act shall be deposited with the Comptroller in a special fund to the credit of the Land Board created in Section 2 hereof. All such moneys so paid into the State Treasury are hereby specifically appropriated to said Land Board for the purpose of defraying the authorized and necessary expenses incident to the enforcement of this Act incurred by said Board in determining the identity of persons entitled to the benefits of this Act. The Comptroller shall, from time to time, upon requisition of the Commissioner of the General Land Office, draw warrants upon the State Treasury for the amounts specified in such requisition, not exceeding, however, the amount of such fund on deposit at the time of the making of any requisition therefor. Any sum remaining in such fund after all expenses have been paid shall be transferred to the Permanent School Fund. The amount of money accruing to the State of Texas as consideration for the sale of the land as provided for in Section 3 hereof shall be placed to the credit of the Permanent School Fund.

Sec. 7. DETERMINATION BY BOARD; PROCLAMATION; TIME FOR APPLICATION. The Land Board, upon the passage of this Act, is

authorized to determine when such lands are available for purchase, and said Board shall by proper proclamation give notice to all persons desiring to file an application to purchase said land, by causing such proclamation to be published once each week for two consecutive weeks in some newspaper of general circulation in each county in which any part of said lands may be located, and by filing a copy of such proclamation with the County Clerk of each such county. Applications to purchase such lands shall be filed with the Commissioner of the General Land Office within four months from and after the last publication, and if said claims are not filed within said time an additional filing fee of Ten (10¢) Cents per acre shall be required. No land shall be patented or sold under the provisions of this Act unless claimed and applied for within twelve months after the publication of said proclamation, and the proclamation shall so state.

Acts 1931, 42nd Leg., p. 311, ch. 185. Amended by Acts 1941, 47th Leg., p. 242, ch. 170, Sec. 1; Acts 1951, 52nd Leg., p. 298, ch. 177, Sec. 1.
Sec. 6 amended by Acts 1997, 75th Leg., ch. 1423, Sec. 21.54, eff. Sept. 1, 1997.

Art. 5330b. SALE OF PUBLIC LANDS ALONG WESTERN OKLAHOMA AND EASTERN TEXAS BOUNDARY AUTHORIZED. From and after the effective date of this Act all public lands in this State situate along the western boundary of the State of Oklahoma and the eastern boundary of the State of Texas and along the 100th degree of west longitude, found to be in the State of Texas by final decree of the Supreme Court of the United States entered March 17, 1930, in the case of the State of Oklahoma vs. the State of Texas, the United States of America, intervenor, theretofore claimed by Oklahoma but now located in Lipscomb, Hemphill, Wheeler, Collingsworth and Childress Counties, are to be offered for sale in accordance with the provisions of Article 5330A, Revised Civil Statutes of Texas Acts 1931, Forty-second Legislature, Page 311, Chapter 185.

Acts 1939, 46th Leg., p. 478, Sec. 1.

Art. 5337-2. EXECUTION IN FAVOR OF NUECES COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 4 FOR WATER SUPPLY.

Sec. 1. The Commissioner of the General Land Office is hereby authorized and empowered, acting for and on behalf of the State of Texas, to execute any and all grants of easements in, on, and across all unsold Public Free School Lands, and in, on, and across all islands, salt water lakes, bays, inlets, marshes, and reefs owned by the state within the tidewater limits, and in, on, and across that portion of the Gulf of Mexico within the jurisdiction of Texas, to Nueces County Water Control and Improvement District Number 4 for right-of-ways for pipe lines and for the installation of all works, facilities, and appliances, in any and all manners incident to, helpful or necessary for securing, storing, processing, treating, transporting, and selling an adequate supply of fresh water; provided, however, said Nueces County Water Control and Improvement District Number 4 shall pay the sum of Ten Dollars ($10.00) as consideration for the granting of each easement.

Sec. 2. The Commissioner of the General Land Office may grant the easements provided in Section 1 hereof for such term and shall cover only such area which in the judgment of the Commissioner may be required to carry out the purposes for which said District was created, and, if he deems it necessary, the Commissioner of the General Land Office may grant such easements perpetually.

Sec. 3. During the existence of the easements authorized and granted pursuant hereto the officers and employees, contractors and sub-contractors of the Nueces County Water Control and Improvement District Number 4 are hereby authorized to go in and upon the lands described herein to construct such pipe lines and to install all works, facilities, appliances, and to repair and to remove same from time to time.

Sec. 4. All easements granted under Section 1 of this Act shall be on forms approved by the Attorney General.

Sec. 5. All income received by the Land Commissioner under this Act from Public School Lands shall be credited to the Permanent School Fund.

Sec. 6. The powers and authority herein conferred and vested in the Commissioner of the General Land Office shall be cumulative of all powers and authority heretofore and hereafter vested in the Commissioner of the General Land Office under the Constitution and laws of this state.

Acts 1959, 56th Leg., p. 688, ch. 314.
Sec. 5 amended by Acts 2003, 78th Leg., ch. 328, Sec. 10, eff. Jan. 1, 2004.

CHAPTER 4. OIL AND GAS

Art. 5341d. EXTENSION OF LEASES ON UNIVERSITY LAND; WAR AGENCY RESTRICTIONS.

Sec. 1. In the case of any non-producing oil, gas or mineral lease on University land, if one hundred twenty (120) days before expiration of the primary term there be in effect any restrictions issued by a Federal war agency prohibiting the drilling or completion of a well thereon, the holder of such lease shall have the right to negotiate an extension or renewal of such lease for a period of not longer than two (2) years with the Board of Regents of the University of Texas and the Commissioner of the General Land Office.

The Board of Regents of the University of Texas and the Commissioner of the General Land Office, in considering an application for an extension or renewal of any such lease above described, shall take into consideration in establishing the consideration for such lease the diligence with which the lessee has followed his duties under the existing lease, the present value of the land upon which an extension or renewal of the lease is sought, and all other good business practices. The lessee in presenting his application for extension or renewal of such lease or leases shall present evidence to the Board of Regents of the University of Texas and to the Commissioner of the General Land Office showing it was impossible for him or any of his co-owners to comply with the restrictions which he claims prohibited the drilling or completion of the well on said tract.

If the lessee should claim as grounds for an extension or renewal of any such lease that there is insufficient acreage within the tract under lease by him to comply with the Federal restriction then no extension or renewal shall be granted unless said lessee also show that there is no adjacent and adjoining acreage to said tract wherein said applicant is a party in interest that could have been combined with the tract upon which the application for extension or renewal is made in order to comply with the Federal restriction.

Sec. 2. The Commissioner of the General Land Office is hereby

authorized to issue to the lease owner such instrument in writing in the nature of an extension or renewal of such lease as may be necessary or proper to carry into effect the foregoing provision of this Act.

Sec. 3. The provisions of this Act are and shall be held and construed to be cumulative of all General Laws of this state on the subject treated of and embraced in this Act when not in conflict herewith, but in case of conflict, in whole or in part, this Act shall control.

Sec. 4. If any section, subdivision, paragraph, sentence, or clause of this Act be held to be unconstitutional, the remaining portions of same shall nevertheless be held valid and binding.

Acts 1943, 48th Leg., p. 359, ch. 238.

Art. 5341e. SUSPENSION OF RUNNING OF TERMS OF LEASES WHILE OWNER IS DENIED ACCESS BY UNITED STATES. If the owner of any valid oil and gas lease granted by the State covering University lands is denied access to or is denied a permit to drill upon or produce from the leased premises by any duly constituted authority of the United States of America, after a bona fide attempt has been made by such owner to obtain access or permit to drill upon or produce from the leased premises, and denial of access as used herein shall include agreements by the lessee or his assigns under any such lease with a duly constituted authority of the United States not to enter upon and engage in drilling operations on any such oil and gas lease made under compulsion or threat of condemnation by such duly constituted authority of the United States, such owner may file with the Board for Lease of University Lands an application describing and giving the date of the action which deprives him of the right of access or the right to drill upon or produce from the premises, and if said Board is satisfied that the facts set forth in the application are true, the Board may enter an order upon its minutes suspending the running of both the primary and the principal term of such lease, or suspending any condition, obligation, or duty thereunder as of the date of the origin of the cause of suspension and during the existence of the cause of suspension, so long as the lessee continues to make on each anniversary date of such lease the annual rental payments stipulated in the lease during the period of suspension.

Such oil and gas lease shall remain in status quo, and all obligations and conditions existing during such lease or such of them as may be suspended by said Board, shall be inoperative and of no force and effect, except the obligation to pay delay rentals as provided for herein, until ninety (90) days after the Board for Lease of University Lands shall enter an order upon its minutes reciting that the cause for suspension has ceased to exist, at which time such oil and gas lease shall, provided the rental payments have been made during the period of suspension, again become operative and all of the suspended obligations and conditions, including the payment of rentals under same, shall again attach and be in force, and in the case of the suspension of the primary and/or principal terms of the lease, the lease shall thereafter continue in force for a period equivalent to the unexpired term of the lease on the date or origin of the cause for suspension. The Commissioner of the General Land Office shall give notice immediately to the lessee of the entry of the order that the cause for suspension has ceased to exist; provided, however, that the annual rental payments have been met.

Acts 1945, 49th Leg., p. 300, ch. 217, Sec. 1.

Art. 5366a. EXTENSION OF OIL AND GAS LEASES ON AREAS COVERED BY COASTAL WATERS OR WITHIN GULF.

Sec. 1. In each case in which an oil and gas mineral lease has heretofore been granted or may hereafter be granted by the State of Texas on an area covered by the coastal waters of the State or within the Gulf of Mexico and in which the War Department of the United State refuses to grant a permit to the lessee or owner of such lease to drill a well thereon for oil, gas or other minerals (the area included in such lease being within the navigable waters of the United States) and in the event the primary term of such lease should expire during the period of time in which the War Department of the United States may continue to refuse to issue such permit, then and in such event the primary term of such lease is hereby extended for successive periods of one (1) year from and after the end of the original primary term of such lease while and so long as the War Department may continue such refusal to issue to the lessee or to the owner of such lease a permit to drill for oil, gas or other minerals,

on the area covered thereby; provided, that in order to make such extensions effectual the lessee or the owner of such lease shall, during each of the annual periods during which the primary term of the lease is so extended, apply to and seek to obtain from the War Department a permit to drill a well for oil, gas or other minerals on the area covered by such lease and be unsuccessful in its attempts to obtain a permit, or, if successful in obtaining a permit, commence operations for drilling a well upon the leased premises within sixty (60) days after obtaining such permit; and provided further that the lessee or the owner of such lease continues to pay the annual renewal rentals at the rate provided for in such lease for the period of time involved in such extensions. Should such lease be so extended and should the War Department at any time while such lease is still in force and effect issue a permit to the lessee or to the owner of such lease to drill a well thereon for oil, gas or other minerals, such lease shall continue in force and effect if the lessee commences drilling operations upon the leased premises within sixty (60) days after obtaining such permit, and so long as the lessee or the owner of such lease shall continue to conduct drilling or mining operations thereon, or if oil, gas or other mineral be discovered thereon by the lessee or the owner of such lease, so long as oil, gas or other mineral is produced from such leased premises. Should the production of oil, gas or other mineral on said leased premises after once secured, cease from any cause, such lease shall not terminate if the lessee or owner of such lease commences additional drilling, reworking or mining operations within thirty (30) days thereafter or if it be within the original primary term of such lease, commences or resumes the payment or tender of rental on or before the rental paying date, if any, next ensuing; but if there be no rental paying date next ensuing, the lease shall in no event terminate prior to the expiration of the primary term.

Sec. 2. The Commissioner of the General Land Office is hereby authorized to issue to the lessee or owner of said lease such instrument in writing in the nature of an extension of said lease as may be necessary or proper to carry into effect the foregoing provisions of this Act.

Acts 1941, 47th Leg., p. 456, ch. 287.

CHAPTER 6. PATENTS

Art. 5414a. VALIDATING PATENTS ON LANDS LYING ACROSS OR PARTLY ACROSS WATER COURSES OR NAVIGABLE STREAMS.

Sec. 1. All patents to and awards of lands lying across or partly across water courses or navigable streams and all patents and awards covering or including the beds or abandoned beds of water courses or navigable streams or parts thereof, which patents or awards have been issued and outstanding for a period of ten years from the date thereof and have not been cancelled or forfeited, are hereby confirmed and validated.

Sec. 2. The State of Texas hereby relinquishes, quit-claims and grants to patentees and awardees and their assignees all of the lands, and minerals therein contained, lying across, or partly across watercourses or navigable streams, which lands are included in surveys heretofore made, and to which lands patents or awards have been issued and outstanding for a period of ten years from the date thereof and have not been cancelled or forfeited, and the State of Texas hereby relinquishes, quit-claims and grants to patentees and awardees and their assignees all of the beds, and minerals therein contained, or water courses or navigable streams, and also all of the abandoned beds, and minerals therein contained, of water courses or navigable streams, which beds or abandoned beds or parts thereof are included in surveys heretofore made, and to which beds or abandoned beds, or parts thereof, patents or awards have been issued and outstanding for a period of ten years from the date thereof, and have not been cancelled or forfeited; provided that nothing in this Act contained shall impair the rights of the general public and the State in the waters of streams or the rights of riparian and appropriation owners in the waters of such streams, and provided further that with respect to lands sold by the State of Texas expressly reserving title to minerals in the State, such reservation shall not be affected by this Act; nor shall relinquish or quit-claim any number of acres of land in excess of the number of acres of land conveyed to said patentee or awardees in the original patents granted by the State, but the patentees or awardees and their assignees shall have the same rights, title and interest in the minerals in the beds or abandoned beds, or parts thereof, of such water courses or navigable streams, that they have in the uplands covered by the same patent or award; provided that this Act shall not in any way affect the State's title,

right or interests in and to the sand and gravel, lying within the bed of any navigable stream within this State, as defined by Article 5302, Revised Statutes of 1925.

Sec. 3. All of the provisions of this Act shall apply equally to all Spanish and Mexican land grants and titles issued by the Spanish or Mexican Governments prior to the Texas Revolution of 1836, which have subsequently been recognized by the Republic of Texas, or by the State of Texas as valid.

Acts 1929, 41st Leg., p. 298, ch. 138.

Art. 5414a-1. VALIDATING DEEDS OF ACQUITTANCE ON LANDS LYING ACROSS OR PARTLY ACROSS WATER COURSES OR NAVIGABLE STREAMS.

Sec. 1. All deeds of acquittance to lands lying across or partly across water courses or navigable streams and all deeds of acquittance covering or including the beds or abandoned beds of water courses or navigable streams or parts thereof, which deeds of acquittance have been issued and outstanding for a period of ten years from the date thereof and have not been cancelled or forfeited, are hereby confirmed and validated.

Sec. 2. The State of Texas hereby relinquishes, quit claims and grants to grantees and their assignees all of the lands, and minerals therein contained, lying across, or partly across water courses or navigable streams, which lands are included in surveys heretofore made, and to which lands deeds of acquittance have been issued and outstanding for a period of ten years from the date thereof and have not been cancelled or forfeited; and the State of Texas hereby relinquishes, quit claims and grants to grantees and their assignees all of the beds, and minerals therein contained, of water courses or navigable streams and also all of the abandoned beds, and minerals therein contained, of water courses or navigable streams, which beds or abandoned beds or parts thereof are included in surveys heretofore made, and to which beds or abandoned beds, or parts thereof, deeds of acquittance have been issued and outstanding for a period of ten years from the date thereof, and have not been cancelled or forfeited; provided that nothing in this Act contained shall impair the rights of the general public and the State in the waters of streams or the rights of riparian and appropriation owners in the

waters of such streams; and provided further, that with respect to lands sold by the State of Texas expressly reserving title to minerals in the State, such reservation shall not be affected by this Act; nor shall the State of Texas relinquish or quit claim any number of acres of land in excess of the number of acres of land conveyed to said grantees in the deeds of acquittance granted by the State, but the grantees and their assignees shall have the same rights, title and interest in the minerals in the beds or abandoned beds, or parts thereof, of such water courses or navigable streams, that they have in the uplands covered by the same deed of acquittance; provided that this Act shall not in anyway affect the State's title, right or interest in and to the sand and gravel lying within the bed of any navigable stream within this State, as defined by Article 5302, Revised Statutes of 1925.

Sec. 3. All of the provisions of this Act shall apply equally to all Spanish and Mexican land grants and titles issued by the Spanish or Mexican governments prior to the Texas Revolution of 1836, which have subsequently been recognized by the Republic of Texas, or by the State of Texas, as valid.

Sec. 4. No provision of this Act shall affect the rights of any parties involved in pending litigation at the effective date of this Act. The provisions of this Act are and shall be held and construed to be cumulative of all laws of this State on the subject treated of and embraced in this Act. All laws or parts of laws in conflict herewith are hereby repealed. If any section, subdivision, paragraph, sentence or clause of this Act shall be held to be unconstitutional, the remaining portions of this Act shall nevertheless be held valid and binding.

Acts 1955, 54th Leg., p. 660, ch. 232.

Art. 5414c. EFFECT OF JUDGMENT IN ACTION TO RECOVER ABANDONED LAND TITLED BEFORE ADOPTION OF COMMON LAW. That in any case where any land in the State of Texas was titled prior to the adoption of the Common Law on March 20, 1840, and there has been a judicial finding that the original grantee of said land abandoned said land prior to the adoption of the Common Law, and the State of Texas has at any time instituted suit for the recovery of said land, resulting in a final judgment adverse to the State of Texas whether on

demurrer, exception, or a jury finding of fact, it shall be conclusively presumed that those now claiming said land under conveyance from, or judgment against, the original grantee or his heirs, are vested with all title to said land which was vested in said original grantee by virtue of any patent or title from the sovereignty of the soil to him.

Acts 1933, 43rd Leg., p. 398, ch. 156.

CHAPTER 7. GENERAL PROVISIONS

Art. 5415e-4. DREDGE MATERIALS ACT.

Sec. 1. SHORT TITLE. This Act may be cited as the Dredge Materials Act.

Sec. 2. POLICY. (a) It is the declared policy of the state to seek, to the fullest extent permissible under all applicable federal law or laws, the delegation to the state of the authority which the corps of engineers exercises under Section 404, as defined in this Act, over the discharge of dredged or fill material in the navigable waters of the State of Texas.

(b) It is the declared policy of the state that the state should not duplicate the exercise of such authority by the corps of engineers, but should instead exercise such authority in lieu of the corps of engineers, so that no permit application is subject to duplicate levels of regulation.

Sec. 3. DEFINITIONS. As used in this Act, unless the context clearly requires otherwise:

(a) "Agency" means the Texas Water Quality Board.

(b) "Agreement" means a written agreement or contract between the State of Texas and the United States, authorizing the State of Texas, through (name of an existing agency), to regulate the discharge of dredged or fill material in the navigable waters of the state under the authority granted by Section 404, as defined in this Act.

(c) "Corps of engineers" means the United States Army Corps of Engineers.

(d) "Discharge of dredged or fill material" has the same meaning as it has in Section 404 as defined in this Act.

(e) "Navigable waters" has the same meaning within the boundaries of the State of Texas as it has in Section 404 as defined

in this Act.

(f) "Section 404" means Section 404, Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. Section 1344), as it may be amended, and such regulations as may be from time to time promulgated thereunder.

Sec. 4. LIMITATIONS. (a) Nothing in this Act shall be construed as authorizing any state agency or political subdivision to regulate the discharge of dredged or fill material in the navigable waters of the state in any manner different from or inconsistent with the requirements of Section 404.

(b) Nothing in this Act shall be construed as authorizing any state agency or political subdivision to regulate the discharge of dredged or fill material in the navigable waters of the state:

(1) by the corps of engineers;

(2) by persons operating under contract with the corps of engineers;

(3) when the corps of engineers certifies that such discharge is incidental to a project undertaken by the corps of engineers or persons operating under contract with the corps of engineers, and that such incidental discharge was announced and reviewed at the same time and under the same conditions as such project; or

(4) by cities which own and operate deepwater port facilities, or by navigation districts or port authorities, or by persons operating under contract with such cities, navigation districts, or port authorities, when such discharges are part of or incidental to a navigation project to be paid for with public funds or when such navigation project is to be owned by such cities, navigation districts, or ports.

(c) Nothing in this Act shall be construed as authorizing any state agency or political subdivision to regulate the discharge of dredged or fill material in the navigable waters of the state in any manner unless and until an agreement as described in this Act is validly entered into and in effect.

(d) Nothing in this Act shall be construed as authorizing any state agency or political subdivision to exercise any authority under this Act except in accordance with an executive order of the governor.

(e) Nothing in this Act shall be construed as authorizing any state agency or political subdivision to regulate the discharge of dredged or fill material in the navigable waters of the state in any

manner different from, or inconsistent with, the agreement described in this Act.

(f) Nothing in this Act shall be construed as affecting any application for a permit from the corps of engineers to discharge dredged or fill material in the navigable waters of the state if such application is received by the corps of engineers or postmarked before the effective date of the agreement described in this Act.

Sec. 5. AGREEMENT. (a) The governor is hereby authorized to enter into an agreement on behalf of the State of Texas, with the United States, acting through its authorized officials, under the terms of which the agency will regulate the discharge of dredged or fill material in the navigable waters of the state.

(b) The governor is expressly authorized to include whatever terms and conditions in such agreement he may deem to be in the best interest of the state, including provisions regarding the termination of such agreement.

(c) The authority of the governor under the Act to enter into such an agreement shall not be delegated.

(d) The legislature expressly finds that the provisions of this section are necessary to enable the governor to carry out his responsibilities under this Act.

Sec. 6. NOT SEVERABLE. The provisions of this Act are expressly declared not to be severable, and if any provision of this Act shall be found to be invalid, the entire Act shall be null and void and of no further force or effect.

Acts 1977, 65th Leg., p. 1906, ch. 759, eff. Aug. 29, 1977.

Art. 5421b. WITHDRAWAL FROM MARKET OF LANDS ADJACENT TO CADDO LAKE.

Sec. 1. All public land lying beneath or adjacent to the waters of Caddo Lake in Marion, Harrison and adjoining counties, and all such public lands heretofore sold by the State that may hereafter revert to the State and become a part of the public domain, be and the same is hereby withdrawn from the market and the title thereto shall remain in the State of Texas to be enjoyed by the public for fishing and hunting and for State park purposes as may hereafter be provided by Law; and the Land Commissioners is hereby directed to

offer no portion of said land for sale nor to receive any bids therefor.

Sec. 2. The Commissioner of the General Land Office may lease any or all of said land for mineral purposes, as now provided by Law, but before the same shall be leased it shall be advertised in some newspaper published at Marshall or Jefferson Texas, stating what land is to be leased and the prices offered therefor; and such advertisement shall invite other and additional bids thereon, and the lease shall only be made to the highest bidder.

Acts 1929, 41st Leg., p. 430, ch. 198.

Art. 5421b-1. LEASING FOR MINERALS OF LANDS UNDER AND ADJACENT TO CADDO LAKE AND TRIBUTARIES.

Sec. 1. All or any part of the Public Lands belonging to the State situated in and under the bed of Caddo Lake and the tributaries thereto and all or any part of such lands adjacent thereto shall be subject to lease for mineral development by the Commissioner of the General Land Office to any person, firm or corporation in accordance with the provisions of existing or future laws pertaining to the leasing and development of all islands, salt-water lakes, bays, inlets, marshes and reefs, owned by the State within tidewater limits, and that portion of the Gulf of Mexico within the jurisdiction of Texas, and all unsold public free school land, both surveyed and unsurveyed, in so far as same are not in conflict herewith.

Sec. 2. The development and operation upon the lands included herein shall be conducted so far as practicable in such manner as to prevent such pollution of the water as will destroy fish or wildlife. The Commissioner of the General Land Office, with the advice and assistance of the Game and Fish Commission, shall prescribe and enforce such rules and regulations as may be necessary for that purpose.

Acts 1955, 54th Leg., p. 844, ch. 311.

Art. 5421c. REGULATING SALE AND LEASE OF SCHOOL LANDS, PUBLIC

LANDS AND RIVER BED; BOARD OF MINERAL DEVELOPMENT CREATED.

Sec. 8-A. The beds of rivers and channels belonging to the State shall be subject to development by the State and to lease or contract for the recovery of petroleum oil and/or natural gas, in tracts of such size as may from time to time be determined by the hereinafter created board, subject to the conditions contained in this Section.

Subsection 6b. As to any and each lease and/or contract heretofore made by the Board of Mineral Development, such Board shall be, and it is hereby, authorized and empowered to revise the same, with the consent of the lessees and/or contracting parties thereunder, their heirs, successors or assigns, in such wise as to subject such lease and/or contract thenceforth to the public policy declared in Subsection 6a. Such revision shall be accomplished by supplemental or modificatory instrument on such terms as the Board of Mineral Development may deem fair and advantageous to this State, but only after a proposal for such revision shall be formally made, in a public document, to the said Board of Mineral Development, by the lessees and/or contracting parties under such lease and/or contract, their heirs, successors or assigns; and provided that in consideration of the consent by such lessees and/or contracting parties, their heirs, successors or assigns, to such revision the Board of Mineral Development shall not reduce the State's share of the oil and/or gas to be received in the future under such lease and/or contract to less than one-fourth of the gross production of oil and/or gas from the land described in such lease and/or contract.

Provided that any revision made under this Act as referred to hereinbefore shall contain in such supplemental or modificatory instrument the power and authority on the part of the Board of Mineral Development to re-instate any money requirement or reduced royalty requirement at any time that in the opinion of the Board such re-instatement should, in view of the then existing conditions and fairness to the State of Texas under the original lease or contract, be made; and the Board of Mineral Development shall exercise such power whenever in its opinion the interest of the State of Texas requires the exercise of such power; provided, further that said Board may modify said contract as aforesaid by adjusting up or down from time to time the State's portion of said oil and/or money payment as the conditions hereinbefore set forth may justify and which may be equitable to the State and to said contractors or their assigns, but in no event shall the State's portion be less than one-

fourth nor more than now provided in said contracts, and in no event shall the Board of Mineral Development have any authority to modify or change said original leases as to gas. Provided, further that no revision made under this Act shall release the lessees or their assigns from the payment to the State for any oil and/or gas produced or the delivery to the State of any oil produced and due the State under the original contracts and produced prior to the effective execution of any revision hereunder.

Provided further, that nothing in such revision shall in anywise relieve any lessee and/or contracting party from any obligation now existing to drill any well either as an offset or otherwise.

"And/or" as used in this Act shall mean and include both and either of the words "and" and "or."

Subsection 6c. No change shall be made by the Board of Mineral Development that will relieve, release and/or suspend the lessees from the payment of any money and/or royalty now due and payable to the State for oil and/or gas produced to the date that the Board makes any change in the present existing lease contracts.

Acts 1931, 42nd Leg., p. 452, ch. 271; Acts 1931, 42nd Leg., 2nd C.S., p. 64, ch. 40; Acts 1933, 43rd Leg., p. 192, ch. 88; Acts 1933, 43rd Leg., p. 309, ch. 120, Sec. 1, 1a; Acts 1939, 46th Leg., p. 465, Sec. 1; Acts 1941, 47th Leg., p. 596, ch. 365, Sec. 1; Acts 1943, 48th Leg., p. 453, ch. 301, Sec. 1; Acts 1953, 53rd Leg., p. 77, ch. 57, Sec. 1; Acts 1957, 55th Leg., p. 434, ch. 209, Sec. 1; Acts 1977, 65th Leg., ch 871, art. I, Sec. 2(a)(1), eff. Sept. 1, 1977.

Art. 5421c-4. EASEMENTS OR SURFACE LEASES OF GULF LANDS TO UNITED STATES FOR NATIONAL DEFENSE; AUTHORITY OF SCHOOL LAND BOARD.

Sec. 1. The School Land Board, created by House Bill No. 9 of the Forty-sixth Legislature (being Title: Public Lands, Chapter 3, of the General Laws of the Forty-sixth Legislature, 1939,) is hereby authorized to grant and issue easements or surface leases to the United States of America in accordance with the conditions hereinafter set out, on any island, salt water lake, bay, inlet, or marsh within tidewater limits, and that portion of the Gulf of Mexico within the jurisdiction of the State of Texas, to be used exclusively

for any purpose essential to the National Defense.

Sec. 2. When the proper authority or agency of the United States of America shall make application to the School Land Board describing the area which is deemed necessary for use in the National Defense said Board shall issue an easement or surface lease to the United States of America granting and conveying to it the free and uninterrupted use of the area described. Provided that before such lease or leases be granted in any county that the Board shall notify the County Judge of said county and shall fix a date for hearing at which time all interested persons may be heard in protest or otherwise. Such easement or surface lease shall be effective only so long as the area is used for the purpose of National Defense, and it shall cease and terminate and the State of Texas shall be revested with full title and possession of the area when same is no longer used for such purpose.

Sec. 3. The easements or surface leases granted hereunder shall be upon the express condition that the State of Texas shall retain all of the oil, gas, and other mineral rights in and under the area affected. The consideration to be paid for the use of said areas shall be agreed upon by the School Land Board and the United States of America and it shall be payable to the State of Texas on an annual basis.

Sec. 4. All leases for grazing purposes heretofore issued by the Commissioner of the General Land Office which are covered or partially covered by any easement or surface lease granted hereunder are hereby made subordinate to such easement or surface lease. If the lessee under any existing oil and gas lease heretofore granted by the State on any area affected by an easement or surface lease granted hereunder, shall file or cause to be filed in the General Land Office an agreement, subordinating to the easement or surface lease granted hereunder all rights held by such lessee under such oil and gas lease, then and in that event the running of both the primary and principal terms of such lease shall be suspended during the existence of such easement or lease; provided, however, that lessee continues the annual rental payment stipulated in the lease during such suspended period. Such oil and gas lease shall remain in status quo, and all obligations, duties, rights and privileges existing under such lease shall be inoperative and of no force and effect until the expiration of said easement or surface lease, at which time said oil and gas lease shall again become operative and all of the

obligations, duties, rights and privileges, including the payment of rentals under same, shall again attach and be in force as they were on the date of the suspension and continue for the unexpired term of such lease. The School Land Board shall give notice immediately to such lessees that their leases are again in force when said easement or surface lease has terminated; provided, however, that the annual rental payments have been met.

Sec. 5. All areas on which there now exists oil, gas, or other mineral production are specifically excluded from the terms of this Act.

Acts 1941, 47th Leg., p. 20, ch. 10.

Art. 5421c-6. PATENTS VALIDATED. All patents issued prior to the effective date of Article 5421-c as amended by House Bill No. 9 of the Forty-sixth Legislature, such effective date being September 21, 1939, by the authority of the State, under the seal of the State and of the Land Office, signed by the Governor and countersigned by the Commissioner of the General Land Office to parties who for a period of ten (10) years prior to the date of application for the patent had held and claimed the same in good faith, under the provisions of Section 5 of Chapter 271, Acts of the Forty-second Legislature, Regular Session, are hereby ratified and title validated and confirmed in such patentees, their heirs or assigns, subject only to the mineral reservation as contained in Section 4, Chapter 271, Acts of the Forty-second Legislature, Regular Session, and without regard to whether or not such land was located within five (5) miles of a well producing oil or gas in commercial quantities at the time of such patent.

Acts 1943, 48th Leg., p. 368, ch. 247, Sec. 1.

Art. 5421d. PATENTS TO LANDS FORMERLY CLAIMED AS IN NEW MEXICO.

Sec. 1. That the Commissioner of the General Land Office is authorized and requested to prepare and issue, and the Governor is authorized to execute and deliver, patents for the lands and accretions thereto, heretofore claimed by New Mexico to be in that state, but determined by the Supreme Court of the United States by

Decree entered April 9, 1928 (New Mexico against Texas, 276 U.S. 556) to be in Texas, to the persons who, on April 9, 1928, were in actual bona fide possession of said lands and claiming title to such lands under patent from the United States.

Sec. 2. In order to receive a patent under this Act, the person desiring such patent shall first make written application to the Commissioner of the General Land Office, describing the land for which a patent is sought and shall show in such application the facts necessary under this Act to entitle applicant to a patent hereunder, and the applicant shall verify the allegations in the application by any accompanying Affidavit, stating that such allegations are true to the best of the knowledge and belief of the applicant, and it shall be necessary that any such application be filed in the office of the Commissioner of the General Land Office within five (5) years from the date upon which this Act goes into effect, and the applicant shall, upon filing said application, deposit with the Commissioner of the General Land Office One Dollar ($1.00) for each acre or fractional part of an acre in the land covered by the application, which shall constitute the purchase price for said land, and upon the delivery of any patent to any person under this Act, the purchase price shall be applied to the Public School Fund of the State of Texas.

Sec. 3. It is further provided that any land acquired by the patent issued under this Act shall be subject to the same liens other than liens for taxes and water and like quasi public charges that would have been against such land had it been in New Mexico.

Sec. 4. It is provided that patents issued under this Act shall be merely quitclaims, and the title conveyed by such patents shall be subject to any prior conveyances by this State, and the patents shall so read.

Sec. 5. As used in this Act, the term "person" applies to and includes an individual, corporation, partnership, or association.

Acts 1933, 43rd Leg., p. 634, ch. 212.

Art. 5421f-2. REINSTATEMENT OF CLAIMS TO LANDS FORFEITED UNDER ARTICLE 5326. The purchasers or their vendees, heirs or legal representatives who have used, occupied, and made improvements on lands prior to the date of forfeiture, and which lands have been

forfeited under the provisions of Article 5326, Revised Civil Statutes of Texas as amended by said House Bill No. 56; and who shall have, within six months after the expiration of the five year limitation period provided for reinstatement in Section 3 of said House Bill No. 56, and prior to January 1, 1947, paid or tendered payment to the Commissioner of the General Land Office of all delinquent interest, accompanied by written requests for reinstatement, may have their claims reinstated by renewing such requests and paying all delinquent interest up to the date of reinstatement.

Acts 1941, 47th Leg., p. 351, ch. 191, Sec. 3-A, added Acts 1947, 50th Leg., p. 275, ch. 169, Sec. 1.

Art. 5421j. GRANT OF FILLED IN LAND TO CITY OF CORPUS CHRISTI.

Sec. 1. All right, title and interest of the State of Texas in and to all land within the area hereinafter mentioned, hitherto lying and situated under the waters of Corpus Christi Bay for and in consideration of the sum of Ten Thousand Dollars ($10,000) cash, is hereby relinquished, confirmed and granted unto the said City of Corpus Christi, its successors and assigns, for public purposes, to-wit:

Being all of that filled-in land lying and being situated in Nueces County, Texas, landward behind the seawall and easterly of the shoreline of Corpus Christi Bay as shown in Survey No. 803 and in the patent from the State of Texas to the City of Corpus Christi, Texas, said patent being dated January 4, 1924, and being Patent No. 86, Volume 21-A.

Sec. 2. All exchanges, sales and conveyances hitherto made by the City of Corpus Christi of property within the area described in Section 1 are hereby ratified; and such property is confirmed, relinquished and granted unto the respective assignees of the City of Corpus Christi, and to their heirs, successors, and assigns, without limitation as to the use thereof to be made by them.

Sec. 3. All exchanges of property, sales of property and conveyances thereof that may be made in the future by the City of Corpus Christi of property, within the area described in Section 1, that has been laid out and platted into lots, blocks or tracts for uses of private ownership as shown on a plat of the Bay Front Plan of

said City of Corpus Christi, on file in the General Land Office of Texas and that may be necessary to adjust the titles and boundaries between the City and other owners are hereby authorized and said City of Corpus Christi is hereby empowered to make such exchanges, sales and conveyances; and all such property as may be so exchanged, sold and conveyed, is hereby confirmed, relinquished and granted unto the respective assigns of the City of Corpus Christi, and to their heirs, successors and assigns forever, without limitation as to use thereof to be made by them.

Sec. 4. The consideration for this land shall be paid to the Commissioner of the General Land Office of the State of Texas for the benefit of the Permanent Public Free School Fund; and a patent to said lands shall be issued to the City of Corpus Christi by the Governor and the Commissioner of the General Land Office of the State of Texas. Upon the payment of the said consideration and the issuance of said patent, the title of the City of Corpus Christi to the said lands shall become absolute, subject to the reservations herein made.

Sec. 5. All mines and minerals, and the mineral rights including oil and gas are hereby specially reserved to the State under that part of said area described in Section 1, which has been filled, laid out and constructed for use by the City of Corpus Christi as streets, public drives, parks, boulevards, and seawall, and all minerals and mineral rights under the remainder of said land are hereby relinquished and released unto the City of Corpus Christi and its assigns.

Sec. 6. This Act shall be and is cumulative of all former grants and authorities from the State of Texas to the City of Corpus Christi.

Acts 1945, 49th Leg., p. 391, ch. 253.

Art. 5421j-1. LEASE OF FILLED IN LAND BY CITY OF CORPUS CHRISTI.

Sec. 1. All property transferred by the State of Texas to the City of Corpus Christi by the provisions of Chapter 253, Acts of the 49th Legislature, Regular Session, 1945, and Chapter 68, General Laws, Acts of the 36th Legislature, Regular Session, 1919, may be leased by the governing body of the City of Corpus Christi for such time and under such terms and conditions and for such purposes as

determined by the governing body of the City of Corpus Christi to be to the best interest of the city, including the public purposes provided by Section 52-a, Article Iii, Texas Constitution, and Section 380.001(a), Local Government Code. The governing body of the City of Corpus Christi shall lease such property in accordance with the procedure prescribed by the charter of the City of Corpus Christi for leasing lands owned by the city.

Acts 1957, 55th Leg., p. 488, ch. 235.
Amended by Acts 2003, 78th Leg., ch. 988, Sec. 1, eff. June 20, 2003.

Art. 5421j-2. LEASE BY CITY OF CORPUS CHRISTI OF SUBMERGED LANDS PREVIOUSLY RELINQUISHED TO CITY BY STATE.

Sec. 1. The City of Corpus Christi is hereby authorized and given the power and authority to lease those certain submerged lands described in Section 4 herein and heretofore relinquished by the State of Texas to the City of Corpus Christi, to any person, firm or corporation, owning lands, land fill or shore area adjacent to the described submerged lands, without restriction as to public or private use thereof, upon whatever terms and conditions the governing body of the City of Corpus Christi deems proper, for any period or term not to exceed fifty (50) years.

Sec. 2. The rights and appurtenances vesting in a Lessee of the City of Corpus Christi in and to those submerged lands shall be limited only by such limitations as might be imposed in the lease which the City of Corpus Christi deemed proper and in the best interest of the City of Corpus Christi; provided that any lease shall contain a provision prohibiting the Lessee, or assigns thereof, from erecting or maintaining thereon any structure or structures, such as buildings, with the exceptions of yacht basins, boat slips, piers, dry-docks, breakwaters, jetties or the like; and provided further that the right to use the waters embraced by the lease shall be reserved to the public, though the boat slips, piers, dry-docks, and the like may be limited to the private use of the Lessee.

Sec. 3. The power and authority granted hereunder to the City of Corpus Christi with respect to the submerged lands described in Section 4 may be exercised only after local referendum election at which a majority of those qualified and voting favor approving the

passage of the ordinance authorizing such lease.

Sec. 4. This Act pertains to a strip of submerged land having dimensions of 500 feet by approximately 2050 feet, having as its West line the East line of the C.G. Glasscock 22.39 acre tract (as such tract is reflected on the map or plat prepared by J.M. Goldston under his certificate of September 8, 1954, and being a survey of the C.G. Glasscock property attached as Exhibit "A" to exchange deed between the City of Corpus Christi, Texas, and the said C.G. Glasscock dated February 2, 1955, recorded in Volume 674, Page 193 of the Deed Records of Nueces County, Texas); having as its East line a line run parallel to and 500 feet East of (measured at right angles) the East line of the C.G. Glasscock 22.39 acre tract above referred to; having as its South line an Easterly projection of the South line of the C.G. Glasscock 22.39 acre tract above referred to from the Southeast corner of said tract (identified by new 2" I.P.) to the point of intersection with the East line above referred to; and having as its North line an Easterly projection of the center line of Buford Street commencing with a new 2" I.P. located at the intersection of the extension of the center line of Buford Street with the East line of the C.G. Glasscock 22.39 acre tract and continuing along a projection of said center line to the point of intersection with the East line of this tract as above defined.

Sec. 5. This Act shall not be construed to grant or convey to the City of Corpus Christi the title to any oil, gas or other mineral which was not already owned by the City of Corpus Christi at the enactment hereof.

Sec. 6. If any laws or parts of laws are in conflict with the provisions of this Act, then the provisions of this Act shall control.

Acts 1961, 57th Leg., p. 1184, ch. 536.

Art. 5421k. SUBMERGED LANDS ACROSS NUECES BAY AND PASS CONVEYED TO STATE HIGHWAY COMMISSION.

Sec. 1. In order that the Texas Transportation Commission may have title to and control of the more or less submerged right of way necessary for the construction and maintenance of a proposed Causeway and its Approaches, across Nueces Bay and the Pass connecting Nueces

Bay and Corpus Christi Bay in San Patricio and Nueces Counties, as described in Section 2 of this Act, and as shown on the right of way map on file in the Texas Department of Transportation at Austin, Texas, and entitled, Control 101-5 & 6 in San Patricio and Nueces Counties, Causeway across Nueces Bay and the Pass connecting Nueces Bay with Corpus Christi Bay on Highway U. S. 181 from Beach Drive in Portland, San Patricio County, and North Beach in Corpus Christi, Nueces County, the State hereby conveys title to and control of the submerged right of ways described in Section 2 of this Act, and as shown on the right of way map above stated, but no part of this Act is to be construed so as to interfere nor conflict with the rights and authority of the Parks and Wildlife Commission, except that the Texas Transportation Commission shall have the full right and authority to take and use, at any time and in any quantity desired, any and all materials within the limits of these tracts, and is exempted from the payment of any and all compensation for any and all materials taken therefrom.

Sec. 2. Field Notes of a survey of 385.638 acres, more or less, of submerged lands and tidewater flats, and situated under the waters of Nueces Bay between Engrs. centerline Sta. 774/50 and Sta. 991/20, about Latitude 27° 51' North and Longitude 97° 22' West, taken from U.S.C. & G.S. Chart No. 1117, and being more particularly described as follows:

[Detailed description omitted.]

Acts 1947, 50th Leg., p. 162, ch. 101.
Sec. 1 amended by Acts 1995, 74th Leg., ch. 165, Sec. 22(16), eff. Sept. 1, 1995.

Art. 5421k-1. CONVEYANCE OF LANDS TO WIDEN STATE HIGHWAY NO. 24 IN DENTON COUNTY.

Sec. 1. In order that the expansion and improvement program of the State Highway Commission may be carried forward in an orderly and expeditious manner the title to and control of that certain narrow strip of land consisting of six (6) separate tracts or parcels and being 4.89 acres, more or less, owned by the State of Texas and the Texas State College for Women, are hereby transferred and conveyed to the Texas Highway Commission for the widening and material

improvement of State Highway No. 24 in Denton County, Texas, from North Locust Street in the City of Denton easterly to the Denton-Collin County Line, as shown on the right-of-way map on file in the State Highway Department at Austin, Texas, and more particularly described as follows, to wit:

[Detailed description omitted.]

Sec. 2. The fact that the improvement and widening of State Highway No. 24 from a point on North Locust Street in the City of Denton easterly to the Denton-Collin County Line has been long delayed because of the inability of the State Highway Commission to obtain the right of way necessary for the widening and improvement of such Highway, creates an emergency and imperative public necessity that the Constitutional Rule requiring bills to be read on three separate days in each House be suspended, and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Acts 1947, 50th Leg., p. 268, ch. 164.

Art. 5421k-2. SUBMERGED RIGHT-OF-WAY ACROSS CAYO DEL OSO IN NUECES COUNTY, CONVEYANCE TO STATE HIGHWAY COMMISSION.

Sec. 1. In order that the Texas Transportation Commission may have title to and control of the more or less submerged right of way necessary for the construction, reconstruction and maintenance of the Causeway and its Approaches across Cayo del Oso in Nueces County, as described in Section 2 of this Act, and as shown on the right-of-way map on file in the Texas Department of Transportation at Austin, Texas, and entitled Project ARMR 5A(1) Control 617-1-1, State Highway No. 358, Nueces County, from U. S. Naval Air Base on Encinal Peninsula to Junction with State Highway No. 286, the State hereby conveys to the Texas Transportation Commission title to and control of the submerged right of way described in Section 2 of this Act, and as shown on the right-of-way map above stated, but no part of this Act is to be construed so as to interfere nor conflict with the rights and authority of the Parks and Wildlife Commission, except that the Texas Transportation Commission shall have the full right and authority to take and use, at any time and in any quantity desired, any and all materials within the limits of this tract, and

is exempted from the payment of any and all materials taken therefrom; provided, however, that all mineral rights, together with the right to explore for and develop same by directional drilling are reserved to the State of Texas.

Sec. 2. The conveyance hereby made shall consist of a tract of more or less submerged land and tidewater flats, situated under the waters of Cayo del Oso between Engineers centerline Station 130 + 32.8 and Station 169 + 54.0 of State Highway No. 358, said tract being a strip of land 1000 feet wide, 500 feet on each side of the centerline of this right-of-way survey which extends from the Flour Bluff Naval Station to Junction with State Highway No. 286, 3.65 miles south of Corpus Christi, said tract extending for a distance of 3921.2 feet, the centerline being more particularly described as follows:

[Detailed description omitted.]

Acts 1957, 55th Leg., p. 16, ch. 12.
Sec. 1 amended by Acts 1995, 74th Leg., ch. 165, Sec. 22(17), eff. Sept. 1, 1995.

Art. 5421k-3. SALE OF LAND IN CAYO DEL OSO TO CITY OF CORPUS CHRISTI; VALIDATION.

Sec. 1. CONFIRMATION AND VALIDATION OF SALE. The sale by the State of Texas to the City of Corpus Christi of 986.97 acres of land in Nueces County, known as Tract C, as shown on a map entitled Sheet No. 1, Laguna Madre, Subdivision for Mineral Development, dated November 1, 1948, and revised September 12, 1951, by addition of Cayo Del Oso Subdivision, which land is described by metes and bounds in that certain patent heretofore issued to said City, being Patent No. 158, Volume 29-B, dated June 11, 1959, is hereby in all things confirmed and validated so that all right, title and interest of the State of Texas in and to all of the land described in said patent, submerged and unsubmerged, shall be and is hereby relinquished, confirmed and granted unto the City of Corpus Christi, its successors and assigns, and such land shall be vested in the City of Corpus Christi subject only to the conditions, limitations and restrictions contained and imposed by the provisions of this Act, which shall entirely supersede the conditions and restrictions referred to in

said patent.

Sec. 2. RESERVATION OF MINERALS AND MINERAL RIGHTS TO STATE FOR PERMANENT SCHOOL FUND. All minerals and mineral rights in, on and under said land are hereby reserved unto the State of Texas for the use and benefit of the Permanent School Fund, provided, however, that in the event of discovery of oil or gas in said land, drilling operations thereon shall be restricted so that not more than one well productive of oil or gas shall be drilled for each one hundred sixty (160) productive acres, and all operations at each such well shall be confined to an area or areas of four (4) acres at and including the well site.

Sec. 3. CONFLICT OF CLAIMS OR BOUNDARIES. In the event of any conflict or claim of conflict between the boundaries of the tract of land described in such patent and the boundaries or claimed boundaries of previously validly titled land owned or claimed by private persons, the City of Corpus Christi is hereby authorized in its own behalf and as agent for the State of Texas to take proper action to resolve such conflict or claim of conflict, without cost or expense, however, to the State of Texas. Without limiting the authority of said City otherwise herein granted or which it has by reason of its ownership, said City is hereby authorized to file suit in the name of the State of Texas to secure a judicial determination of said boundaries; and said City is further authorized to establish the boundaries between the tract covered by said patent and any adjoining private owner or claimant by agreement, which boundary agreement or agreements shall be set forth in writing and shall be effective when approved by ordinance of said City adopted for such purpose. In the event of any change in the boundaries of said tract as a result of judicial decree or by agreement in accordance herewith, corrected field notes of said tract shall be filed in the General Land Office and a corrected patent shall be issued to the City of Corpus Christi, its successors and assigns, subject to the provisions of this Act.

Sec. 4. IMPROVEMENT OF LAND; TITLE TO LAND. The City of Corpus Christi, its agents or assigns shall improve such portions of the land covered by said patent or any corrected patent as such city, its agents or assigns, deems suitable and proper therefor. Such improvement shall consist of the raising or filling to a height of at least three (3) feet above the level of mean high tide, except for such part as may be devoted to channels, canals, or waterways. Title

to any portion of such land (except that devoted to channels, canals, or waterways) that has not been so improved by filling to such height before July 1, 1977, shall revert to the State of Texas, and from and after that date neither said city nor its assigns shall have any right, title, claim, or interest to such portion which has not been so improved. No title shall revert, however, to the State of Texas as to any portion or portions which are filled to such height before July 1, 1977, including portions which are devoted to channels, canals, or waterways appurtenant to or used in connection with any portion so improved.

Sec. 5. POWERS OF CITY TO CONVEY OR RETAIN LAND; OTHER POWERS. Said city may retain all or any part of the land subject to this Act, and it may convey all or any part or parts of such land to others. As to each tract or parcel of land which the city conveys to another or others, each such conveyance or conveyances shall:

(A) Contain a condition subsequent, which shall provide that such grantee or grantees shall by the date specified in the conveyance, which date shall in no event be later than July 1, 1977, improve the particular tract or parcel of land included in such conveyance to the extent that it will be filled to a height of at least three (3) feet above mean high tide, except for such portions thereof as may be devoted to channels, canals, or waterways. If the date specified in the conveyance is a date prior to July 1, 1977, such condition subsequent shall provide that if said condition is breached, title to the tract or parcel of land covered by said conveyance that is not so improved (except for such portions as may be devoted to channels, canals, or waterways) shall revert to the City of Corpus Christi, and the right of reentry retained by said city in the conveyance shall be immediately exercised; and said city may thereafter retain such portion or portions of such tract or parcel, or may convey such portion or portions in the same manner as provided above. If the date specified in the conveyance is July 1, 1977, such condition subsequent shall provide if said condition is breached, title to such portion or portions of the tract or parcel of land covered by said conveyance that are not so improved (except for such portions as may be devoted to channels, canals, or waterways) shall revert to the State of Texas;

(B) Provide that such portion or portions of the tract or parcel of land covered by the conveyance which have been so improved, including such portions thereof as may be devoted to channels,

canals, or waterways appurtenant to or used in connection with any portion so improved, shall, upon the written application to the City of Corpus Christi describing the improved area and the area devoted to channels, canals, or waterways appurtenant or used in connection therewith, be by the city by ordinance or resolution released of the condition subsequent and a proper recordable release shall be executed and delivered. Any such ordinance or resolution of said city shall be binding upon all parties concerned, including the State of Texas, as to the making of the improvements in accordance herewith; provided, however, that in the event the City of Corpus Christi conveys or leases all or any part of said land to any other person, persons, firms, corporation or entity of any nature, said city shall pay to the Texas Permanent Free School Fund a sum equal to one-half (1/2) of the reasonable market value thereof.

Sec. 6. PLANS AND CONTRACTS FOR IMPROVEMENTS; POWERS OF CITY. The City of Corpus Christi is hereby authorized to prepare or approve plans for the improvements covered by this Act, and to make and enter into such agreements or contracts relating to such improvements as in the judgment of the governing body thereof may be necessary or desirable, and such agreements or contracts may be with grantees or prospective grantees of all or any portion of the land subject to this Act, or other parties.

Sec. 7. REPEALER. The land subject to this Act, as identified in Section 1 hereof, shall henceforth be held subject to the provisions of this Act and all laws or parts of laws in conflict herewith are hereby repealed or modified to the extent of such conflict.

Sec. 8. LAW CUMULATIVE. This Act shall be and is cumulative of all former grants and authorities from the State of Texas to the City of Corpus Christi.

Acts 1961, 57th Leg., p. 1089, ch. 489.
Sec. 4 amended by Acts 1965, 59th Leg., p. 91, ch. 34, Sec. 1, eff. Aug. 30, 1965; Acts 1971, 62nd Leg., p. 1414, ch. 392, Sec. 1, eff. May 26, 1971.
Sec. 5 amended by Acts 1965, 59th Leg., p. 91, ch. 34, Sec. 2, eff. Aug. 30, 1965; Acts 1971, 62nd Leg., p. 1414, ch. 392, Sec. 2, eff. May 26, 1971.

Art. 5421l. CONTROL OF CERTAIN PROPERTY IN AUSTIN TRANSFERRED TO UNIVERSITY REGENTS. From and after the effective date of this Act the control and management of, and all rights, privileges, powers and duties in connection with the property owned by the State of Texas and located on the west side of Red River Street between East Nineteenth and Eighteenth Streets, being the East One-half (1/2) of Outlot No. Sixty-three (63), consisting of Lots Eight (8), Nine (9), Ten (10), Eleven (11), Twelve (12), Thirteen (13) and Fourteen (14) of Division "E" of the City of Austin, Travis County, Texas, which were formerly vested in and exercised by the State Board of Control, shall be transferred to, vested in, and exercised by the Board of Regents of The University of Texas, and hereafter, the aforesaid property shall be used for the purposes and activities of The University of Texas.

Acts 1947, 50th Leg., p. 472, ch. 272, Sec. 1.

TITLE 103. PARKS

Art. 6077h-3. CONSTRUCTION AND MAINTENANCE WORK WITHIN PARK; FORCE LABOR. After the effective date of this Act, the Wood County Commissioners Court, including the County Judge and each of the four (4) Commissioners representing the four (4) Commissioners Precincts of said County, are hereinafter granted the power and authority to employ the use of force labor, county owned equipment and technical help in any and all construction work after agreement with the State Parks Board, within the bounds of the Governor James Stephen Hogg Memorial Shrine Park, located in the City of Quitman, Wood County, Texas. For the purpose of fulfilling the provisions of this Act, the Commissioners Court of Wood County will be authorized to remove underbrush, provide adequate drainage, construct driveways and to maintain sections of said Park all in accordance to the plans and specifications now in existence and to be outlined by the State Parks Board. Nothing in this Act shall be construed to mean that the Commissioners Court of Wood County shall be required to perform work within the scope of this Act by the State Parks Board, but rather on a permissive and voluntary basis.

Acts 1959, 56th Leg., p. 985, ch. 460, Sec. 1.

Art. 6077o. LEASING FOR OIL AND GAS.

Sec. 1. BOARD FOR LEASE OF STATE PARK LANDS CREATED. A Board is hereby created to consist of the Commissioner of the General Land Office, one (1) citizen of the state, appointed by the Attorney General with the advice and consent of the Senate, who shall serve for a term of two (2) years, and the chairman of the Parks and Wildlife Commission, who shall perform the duties hereinafter indicated; the Board shall be known as the "Board for Lease of State Park Lands." The term "Board" wherever it appears hereafter in this Act shall mean the Board for Lease of State Park Lands. This Board shall keep a complete record in writing of all its proceedings.

Sec. 2. AUTHORITY OF BOARD. The Board hereinabove created is hereby authorized to lease to any person or persons, firm or corporation subject to, and as provided for in this Act, for prospecting, or exploring for and mining, producing, storing, caring for, transporting, preserving and disposing of the oil and/or gas therein to all lands or parcels of same included in the following State Parks, to wit: Abilene State Park, Balmorhea State Park, Bastrop State Park, Bentsen-Rio Grande Valley State Park, Buescher State Park, Big Spring State Park, Blanco State Park, Bonham State Park, Caddo Lake State Park, Cleburne State Park, Daingerfield State Park, Davis Mountains State Park, Fort Griffin State Park, Fort Parker State Park, Old Fort Parker State Park, Frio State Park, Garner State Park, Goose Island State Park, Huntsville State Park, Inks Lake State Park, Jim Hogg State Park, Kerrville State Park, Lake Corpus Christi State Park, Longhorn Cavern State Park, MacKenzie State Park, Meridian State Park, Mineral Wells State Park, Mother Neff State Park, Palmetto State Park, Palo Duro Canyon State Park, Possum Kingdom State Park, San Jose Mission State Park, Stephen F. Austin State Park, Thirty-sixth Division State Park, Tyler State Park, Independence State Park, Barreda State Park, Jeff Davis State Park, Katemcy State Park, Love's Lookout State Park, Robinson State Park, Tips State Park, Fannin State Park, Goliad State Park, Gonzales State Park, Kings State Park, Governor James Stephen Hogg Memorial Shrine, Lipantitlan State Park, Acton State Park, and Monument Hill State Park.

Sec. 3. SURVEY AND SUBDIVISION; ABSTRACTS OF TITLE. The Board is hereby authorized to cause State Park lands to be surveyed and subdivided into such lots or blocks as will be conducive or convenient to facilitate the advantageous sale of oil and/or gas

leases thereon and identify such lots and blocks by permanent markings on the ground, and to make such maps and plats as may be thought necessary to carry out the purposes of this Act. The Board shall forthwith obtain authentic abstracts of title to such State Park lands, and cause same to be examined by the Attorney General who shall file written opinions thereon, and said Board shall take such steps as may be necessary to perfect a merchantable title to such lands in the State of Texas. Such Abstracts of Title and the Attorney General's opinion thereon shall be held on file in the General Land Office as public documents for the inspection of any prospective purchasers of oil and gas leases on said lands.

Sec. 4. ADVERTISEMENT FOR BIDS. Whenever, in the opinion of the Board, there shall be such a demand for the purchase of oil and/or gas leases on any lot or tract of said land as will reasonably insure an advantageous sale, the Board shall place such oil and gas in said land on the market in such blocks or lots as the Board may designate. It shall cause to be advertised a brief description of the land from which the oil and gas is proposed to be sold, and that sealed bids for the purchase of said oil and/or gas by lease will be opened at designated day, at ten o'clock a.m. that day, and that sealed bids received up to that time will be considered. Said advertisements shall be made:

(a) By insertion in two or more papers of general circulation in this State.

(b) By mailing a copy thereof to the county clerk and county judge of every county in this State in which an advertised area may be situated.

(c) In addition to the two foregoing the Board may in its discretion cause advertisement to be placed in oil and gas journals in and out of the State, and to be mailed generally to such persons as they think might be interested.

Sec. 5. BIDDING. All bids shall be directed to the said Board in care of the General Land Office of the State of Texas, and shall be retained by the Commissioner of the General Land Office, until the day designated for the opening of bids, and upon that day the said Board, or a majority of its members, shall open said bids and shall list and file and register all bids and money received. A separate bid shall be made for each whole survey or subdivision thereof. No bid shall be accepted which offers a royalty of less than one-eighth (1/8th) of the gross production of oil and/or gas in the land bid

upon, and this minimum royalty may be increased at the discretion of the Board, all members concurring, before the promulgation of the advertisement of the land. Every bid shall carry the obligation to pay an amount not less than One Dollar ($1) per acre for delay in drilling, such amount to be fixed by the Board in advance of the advertisement, and which shall be paid every year for five (5) years, unless in the meantime production in paying quantities is had upon the land.

Sec. 6. PAYMENTS ACCOMPANYING BIDS; REQUISITES OF BIDS. Every bid shall be accompanied by a payment equal to the minimum price fixed on the land per acre for the delay in drilling if the bid is accepted. The bid shall further indicate the royalty the bidder is willing to pay, which royalty shall not be less than one-eighth (1/8th) of the gross production. The bid shall further name such amount as the bidder may be willing to pay in addition to the royalty and in the annual payment herein provided for, and shall be accompanied by cash or checks collectable in Austin to cover said amounts.

Sec. 7. LEASE OR SALE. If any one of the bidders shall have offered a reasonable and proper price therefor, and less than the price fixed by the Board, the lands advertised, or any whole survey or subdivision thereof, may be leased for oil and/or gas purposes under the terms of this Act, and such regulations as the Board may prescribe, not inconsistent with the provisions of this Act. If after any bidding by sealed bids the Board should reject all bids, as it is hereby authorized to do, it may thereafter offer for sale and sell the oil and/or gas in said lands, in separate whole surveys only or subdivisions thereof, by open public auction at a price less than the price offered by the sealed bids. All bids may be rejected. In the event of no sale at public auction, any subsequent procedure for the sale of said oil and gas leases shall be in the manner above provided.

Sec. 8. FILING BIDS; DISCONTINUANCE OF YEARLY PAYMENTS; TERMINATION OF LEASE. If the Board shall determine that a satisfactory bid has been received for said oil and gas, it shall be filed in the General Land Office. Whenever the royalties shall amount to as much as the yearly payment as fixed by the Board, the yearly payment may be discontinued. If before the expiration of three (3) years oil and/or gas shall not have been produced in paying quantities, the lease shall terminate.

Sec. 9. RENTALS NOT PAYABLE DURING DRILLING OPERATIONS; DISCOVERY OF OIL OR GAS. If during the term of any lease issued under the provisions of this Act the lessee shall be engaged in actual drilling operations for the discovery of oil and/or gas on land covered by any such lease, no rentals shall be payable as to the tract on which such operations are being conducted so long as such operations are proceeding in good faith; and in the event oil or gas is discovered in paying quantities on any tract of land covered by any such lease, then the lease as to such tract shall remain in force so long as oil or gas is produced in paying quantities from such tract. In the event of the discovery of oil and/or gas on any tract covered by a lease issued hereunder or on any land adjoining same, the lessee shall conduct such operations as may be necessary to prevent drainage from the tract covered by such lease to properly develop the same. Failure to comply with the obligations provided by this Section shall subject the holder of the lease to penalties provided in Sections 12 and 13 of this Act.

Sec. 10. DURATION OF RIGHTS; ASSIGNMENT; PIPE LINES, TELEPHONE LINES AND ROADS. Title to all rights purchased may be held by the owners so long as the area produces oil and gas in paying quantities. All rights purchased may be assigned in quantities of not less than forty (40) acres, unless there be less than forty (40) acres remaining in any survey, in which case such lesser area may be so assigned. All assignments shall be filed in the General Land Office within one hundred (100) days after the date of the first acknowledgment thereof, accompanied by ten cents (10¢) per acre for each acre assigned, and if not so filed and payment made, the assignment shall be ineffective. All rights to any whole survey and to any assigned portion thereof may be relinquished to the State at any time by having an instrument of relinquishment recorded in the county or counties in which the area may be situated, and filed in the Land Office accompanied with One Dollar ($1) for each area assigned but such assignment shall not relieve the owner of any past due obligations theretofore accrued thereon. The Board shall authorize the laying of pipe line, telephone line, and the opening of such roads over State Park Lands as may be deemed reasonably necessary for and incident to the purposes of this Act.

Sec. 11. PAYMENT OF ROYALTY AND BONUS; SWORN STATEMENT; INSPECTION OF BOOKS AND ACCOUNTS. Royalty and bonus as stipulated in the sale shall be paid to the General Land Office at Austin, Texas,

for the benefit of the State Park Development Fund on or before the last day of each month for the preceding month during the life of the rights purchased, and it shall be accompanied by the sworn statement of the owner, manager or other authorized agent showing the gross amount of oil produced and saved since the last report and the amount of gas produced and sold off the premises and the market value of the oil and gas, together with a copy of all daily gauges of tanks, gas meter readings, pipeline receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipelines, tanks or pools and gas lines or gas storage. The books and accounts, receipts and discharges of oil wells, tanks, pools, meters, pipelines, and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil and/or gas shall at all times be subject to inspection and examination by the Commissioner of the General Land Office, the Attorney General, or any member of the State Parks Board.

Sec. 11a. DISPOSITION OF MONEY RECEIVED. It is expressly provided, however, that any royalty or bonus derived from those park lands operated by local park commissions with the advice and consent of the Board of Control shall be paid to the General Land Office at Austin, Texas to the credit of the State Park Development Fund, which fund is hereby created. All moneys or sums so deposited to the State Park Development Fund shall be appropriated and expended by the Legislature.

Sec. 12. PROTECTION FROM DRAINAGE. In every case where the area in which oil and/or gas sold shall be contiguous to or adjacent to land not State Park Land, the acceptance of the bid and the sale made thereby shall constitute an obligation on the owner thereof to adequately protect the land leased from drainage from adjacent lands. In cases where the area in which the oil and/or gas is sold at a lesser royalty, the owner shall likewise protect the State from drainage from the land so leased or sold for lesser royalty. Upon failure to protect the land from drainage as herein provided the sale and all rights thereunder may be forfeited by the Board in the manner elsewhere provided herein for forfeitures.

Sec. 13. FORFEITURE OF LEASE; DAMAGES; SPECIFIC PERFORMANCE; LIEN OF STATE. If the owner of the rights acquired under this Act shall fail or refuse to make the payment of any sum due thereon, either as rental or royalty on the production, within thirty (30) days after same shall become due, or if such owner or his authorized

agent should make any false return or false report concerning production, royalty or drilling, or if such owner shall fail or refuse to drill any offset well or wells in good faith, as required by his lease, or if such owner or his agent should refuse the proper authority to access to the records and other data pertaining to the operations under this Act, or if such owner, or his authorized agent, should fail or refuse to give correct information to the proper authorities, or fail or refuse to furnish the log of any well within thirty (30) days after production is found in paying quantities, or if any of the material terms of the lease should be violated, such lease shall be subject to forfeiture by the Board by an order entered upon the minutes of the Board reciting the facts constituting the default, and declaring the forfeiture. The Board may, if it so desires, have suit instituted for forfeiture through the Attorney General of the State. Upon proper showing by the forfeiting owner, within thirty (30) days after the declaration of forfeiture, the lease may, at the discretion of the Board and upon such terms as it may prescribe, be reinstated. In case of violation by the owner of the lease contract, the remedy of the State by forfeiture shall not be the exclusive remedy but suit for damages or specific performance, or both, may be instituted. The State shall have a first lien upon all oil and/or gas produced upon the leased area, and upon all rigs, tanks, pipe lines, telephone lines, and machinery and appliances used in the production and handling of oil and gas produced thereon, to secure any amount due from the owner of the said lease.

Sec. 14. FILING PAPERS; PAYMENTS; APPROPRIATION AND EXPENDITURE. All surveys, files, records, copies of sale and lease contracts and all other records pertaining to the sales and leases hereby authorized on State Park Land under the control of State Parks Board, shall be filed in the General Land Office and constitute archives thereof. Payment hereunder shall be made to the Commissioner of the General Land Office at Austin, Texas, who shall transmit to the Comptroller all bonus payments and royalty for deposit to the credit of the State Park Development Fund, and all rentals for delay in drilling and all other payments, including all filing assignments and relinquishment fees hereunder to the credit of the State Park Development Fund. All moneys or sums so deposited to the State Park Development Fund shall be appropriated and expended by the Legislature for the development, improvement and maintenance of State Parks.

Sec. 14a. PARK LANDS OPERATED BY LOCAL PARK COMMISSIONS. Provided, however, that all bonus payments, royalty payments, delay rentals and all other payments paid in connection with park lands operated by local park commissions with the advice and consent of the Board of Control shall be paid to the State Park Development Fund.

Sec. 15. PAYMENT OF EXPENSES. The expenses of executing the provisions of this Act shall be paid monthly by warrants drawn by the Comptroller on the State Treasury, and for that purpose the sum of Two Thousand Dollars ($2,000), or as much thereof as may be necessary is hereby appropriated out of any money in the Treasury not otherwise appropriated until September 1, 1951.

Sec. 16. PARTIAL UNCONSTITUTIONALITY. If any provision hereof should be held unconstitutional, the balance of the Act shall not be affected thereby.

Sec. 17. POWERS OF BOARD. The Board shall adopt proper forms and regulations, rules and contracts as will in its best judgment protect the income from lands leased hereunder. A majority of the Board shall have power to act in all cases, except where otherwise herein provided. The Board may reject any and all bids and shall have the further right to withdraw any lands advertised for lease prior to receiving and opening bids. Any and all or parts of laws in conflict with this Act are hereby repealed.

Acts 1949, 51st Leg., p. 773, ch. 416. Amended by Acts 1963, 58th Leg., p. 1138, ch. 442, Sec. 4, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 914, ch. 400, Sec. 8, eff. June 8, 1967.
Sec. 14 amended by Acts 1997, 75th Leg., ch. 1423, Sec. 21.58, eff. Sept. 1, 1997.
Sec. 15 amended by Acts 1997, 75th Leg., ch. 1423, Sec. 21.58, eff. Sept. 1, 1997.

TITLE 105. PARTNERSHIPS AND JOINT STOCK COMPANIES

CHAPTER 2. UNINCORPORATED JOINT STOCK COMPANIES

Art. 6133. SUIT IN COMPANY NAME. Any unincorporated joint stock company or association, whether foreign or domestic, doing business in this State, may sue or be sued in any court of this State having jurisdiction of the subject matter in its company or distinguishing name; and it shall not be necessary to make the individual stockholders or members thereof parties to the suit.

Acts 1907, p. 240.

Art. 6134. SERVICE OF CITATION. In suits against such companies or associations, service of citation may be had on the president, secretary, treasurer or general agent of such unincorporated companies.

Acts 1907, p. 240.

Art. 6135. JUDGMENT. In suits by or against such unincorporated companies, whatever judgment shall be rendered shall be as conclusive on the individual stockholders and members thereof as if they were individually parties to such suits.

Acts 1907, p. 240.

Art. 6136. JOINT LIABILITY. Where suit shall be brought against such company or association, and the only service had shall be upon the president, secretary, treasurer or general agent of such company or association, and judgment shall be rendered against the defendant company, such judgment shall be binding on the joint property of all the stockholders or members thereof, and may be enforced by execution against the joint property; but such judgment shall not be binding on the individual property of the stockholders or members, nor authorize execution against it.

Acts 1907, p. 240.

Art. 6137. INDIVIDUAL LIABILITY. In a suit against such company or association, in addition to service on the president, secretary, treasurer or general agent of such companies or association, service of citation may also be had on any and all of the stockholders or members of such companies or associations; and, in the event judgment shall be against such unincorporated company or association, it shall be equally binding upon the individual property of the stockholders or members so served, and executions may issue against the property of the individual stockholders or members, as well as

against the joint property; but executions shall not issue against the individual property of the stockholders or members until execution against the joint property has been returned without satisfaction.

Acts 1907, p. 240.

Art. 6138. THIS CHAPTER CUMULATIVE. The provisions of this chapter shall not affect nor impair the right allowed unincorporated joint stock companies and associations to sue in the individual names of the stockholders or members, nor the right of any person to sue the individual stockholders or members; but the provisions of this chapter shall be construed as cumulative merely of other remedies now existing under the law.

Acts 1907, p. 240.

TITLE 106. PATRIOTISM AND THE FLAG

Art. 6143bb. STATE FLOWER SONG. Resolved by the House of Representatives, the Senate concurring, That it adopt the Bluebonnet song as the State Flower Song.

Acts 1933, 43rd Leg., p. 930, H.C.R. No. 24.

Art. 6144a. TEXAS WEEK. Therefore, be it resolved, that the Senate of Texas, the House of Representatives concurring therein, does here and now approve this Resolution and set apart annually the entire week in which March the Second comes as a season to be known as Texas Week; and by this action of the Legislature His Excellency, the Governor of Texas, is hereby vested with the power and is besought to issue and to publish annually his proclamation outlining the purpose and the spirit of Texas Week and urging every citizen of this State to exalt and extol the highest and the best cultural and spiritual values of Texas throughout Texas Week; and

Be it further resolved, that it is now and ever shall be in direct violation of the purpose and spirit of Texas Week to observe it as a season of holidays; and the Legislature of the State of Texas does affirm that, under no condition, is Texas Week to be

looked upon as a week of holidays; but on the other hand and quite to the contrary, it is hereby alleged that during Texas Week every citizen of this State is encouraged to work, insofar as he is able, and to do his work a bit better than he does it during other weeks of the year; and

Therefore, be it further resolved, that the Legislature by this Resolution does urge His Excellency, the Governor of Texas, to suggest to the citizens of this State in his annual proclamations that they observe the following forms of activity, and from time to time such other forms of observance that he may deem wise, insofar as his suggestions do not conflict with the purpose and spirit of Texas Week as outlined in this Resolution:

First, it is enjoined that every home; every office, place of business and industry; every school, parochial, private, or public; every college and university; and all institutions of whatever class or character, educational or eleemosynary, be requested through this Resolution and the annual proclamations of the Governor of Texas to hoist a Texas Flag from some prominent point of vantage and let it be unfurled each day during Texas Week; and

Second, it is now and ever shall be expected that all teachers and pupils in every school of whatever class or classification shall observe Texas Week appropriately in general assemblies, in classes, clubs, and in any and all other groups as they may be assembled for school work; that schools be encouraged to assemble exhibits of Texas products, pictures, relics, books and documents, and hang in permanent places pictures of famous heroes of Texas; that schools which are in reach of battle fields, missions, and other places of historical interest and importance are hereby encouraged to make patriotic pilgrimages to such places of fame during Texas Week; but it is understood that no school is to celebrate Texas Week as a season of holidays. On the other hand, better work shall be expected of all schools throughout Texas Week; and

Third, it is enjoined upon commerce and industry, professional life and activity, civic activity, and every other kind of occupational pursuit, in which Texas citizens may be engaged, that they recognize and observe Texas Week in a fitting manner. To this end it is recommended that courts in session, luncheon clubs, women's organizations, churches, conventions, lodges, and the Legislature when in session, all departments of government, city, county, and State; and any and every other group of citizens for whatever

purpose they may be assembled, be urged now and ever in the future to observe Texas Week appropriately by rendering programs in keeping with the purpose and spirit of this occasion as set forth in this Resolution; and

Fourth, that every citizen, old or young, within the borders of this great State be urged now and ever in the future, by this Act of the Legislature and in accordance with the proclamations of the Governor of Texas issued and published annually to be seen and read by all citizens of Texas, to exalt and extol the cultural and spiritual values which we cherish so fondly; the blessed and romantic traditions of our glorious history; the high standards and lofty ideals of statesmanship, of scholarship, of leadership, of character, and of service which our forefathers gave to us as our rare and rich heritage, and to give thanks for this marvelous inheritance as we faithfully and conscientiously observe Texas Week.

Acts 1932, 42nd Leg., 3rd C.S., p. 131, S.C.R. No. 8.

Art. 6144d. TEXAS CONSERVATION AND BEAUTIFICATION WEEK. Resolved, by the Senate of the State of Texas, the House of Representatives concurring, that Texas Conservation and Beautification Week be observed each year at that time which shall include April twenty-first, San Jacinto Day, and April twenty-fourth, National Wildflower Day, said week beginning two days before the twenty-first of April and ending two days after April twenty-fourth, and that said week shall be observed so that it contributes to the conservation and beautification of the State and to the happiness and lasting benefit of its people, thus making known, enforcing and teaching respect for the written and unwritten conservation laws of our country thus showing our respect and appreciation for all that is ours to cherish while we live and should preserve for posterity here where "The heavens declare the glory of God and the firmament showeth His handiwork."

Acts 1935, 44th Leg., p. 1275, S.C.R. No. 28.

Art. 6145-4. OLD GALVESTON QUARTER.

Sec. 1. PURPOSE OF ACT. The purpose of this Act is to implement

the Texas constitutional provisions by preserving and perpetuating as a memorial to the history of Texas one of the most historically significant areas of Texas, being that of Old Galveston.

Sec. 2. CREATION OF OLD GALVESTON QUARTER; BOUNDARIES. (a) There is hereby created in the City of Galveston a district to be known as the Old Galveston Quarter, which shall be comprised of all the territory contained within the boundaries described as follows:

BEGINNING 1/2 block South of the corner of Broadway and 12th Street, West parallel to Broadway to a point 1/2 block South of the corner of 19th and Broadway;

THENCE North to a point 1/2 block North of Sealy;

THENCE East to a point 1/2 block North of Sealy and 17th Street;

THENCE North to the corner of 17th Street and Market Street;

THENCE East along Market Street to the corner of Market Street and 15th Street;

THENCE North along 15th Street to Avenue A;

THENCE East along Avenue A to the corner of Avenue A and 12th Street;

THENCE South along 12th Street to the place of beginning.

(b) Property contiguous to that described above may come within said District upon petition of the property owners.

Sec. 3. OLD GALVESTON QUARTER COMMISSION; MEMBERS; TERMS; CHAIRMAN AND OFFICERS. (a) The powers of the Old Galveston Quarter shall be exercised by the Old Galveston Quarter Commission consisting of five members all of whom shall be property owners within the Quarter. The Governor shall appoint the five members from a list of ten property owners nominated by the membership of the Old Galveston Quarter Property Owners Association at the annual meeting or a special meeting called for this purpose, provided that all resident property owners within the Quarters are entitled to vote upon these nominations at the meeting. The initial terms of the first five members of the Commission shall be as follows: the Governor shall appoint two for a three year term; two for a two year term; and one for a one year term. Upon the expiration of each of these terms, subsequent appointments shall be filled in a similar manner for a term of three years.

(b) As the term of any such Commissioner, or of any subsequent Commissioner expires, his successor shall be appointed in like manner. Vacancies in the Commission shall be filled in the same manner for the unexpired term. Every Commissioner shall continue in

office after the expiration of his term until his successor is duly appointed and has qualified.

(c) The Commission shall elect one of its members as chairman, one as vice-chairman and another as treasurer; and the signed authorization by two shall be necessary for operating expenditures. Members of the Commission shall serve without compensation. The records of the Commission shall set forth every determination made by the Commission and the vote of every member participating therein and the absence or failure to vote of every other member.

Sec. 4. LIMITATION ON ISSUANCE OF BUILDING PERMIT. No permit shall be issued by the City of Galveston for the construction of any structure in the Old Galveston Quarter or the reconstruction, alteration or demolition of any structure now or hereafter in said Quarter, except in cases excluded by this Act, unless the application for such permit shall bear a certificate under Section 6 of this Act that no exterior architectural feature is involved or shall be accompanied by a certificate of appropriateness issued under this Act, or in the case of the demolition of a structure, a certificate under this Act that thirty (30) days or such lesser period as the Commission may have determined has expired after receipt by the Commission of notice of demolition.

Sec. 5. CERTIFICATE OF NONAPPLICABILITY OF STATUTE. Except in cases excluded by Section 8 of this Act, every person about to apply to the City of Galveston for a permit to construct any structure in the Old Galveston Quarter or to reconstruct, alter or demolish any structure now or hereafter in said Quarter shall deposit with the secretary of the Commission his application for such permit together with all plans and specifications for the work involved. Within fifteen (15) days thereafter, Saturdays, Sundays and legal holidays excluded, the Commission shall consider such application, plans and specifications and determine whether any exterior architectural feature is involved. If the Commission determines that no exterior architectural feature is involved, it shall cause its secretary to endorse on the application forthwith a certificate of such determination and return the application, plans and specifications to the applicant.

Sec. 6. EXTERIOR ARCHITECTURAL OR ADVERTISING FEATURES; CERTIFICATE OF APPROPRIATENESS. (a) No person shall construct any exterior architectural or advertising feature in the Old Galveston Quarter, or reconstruct or alter any such feature now or hereafter in

said Quarter, until such person shall have filed with the Secretary of the Commission an application for a certificate of appropriateness in such form and with such plans, specifications and other material as the Commission may from time to time prescribe and a certificate of appropriateness shall have been issued as hereinafter provided in this Section.

(b) Within fifteen (15) days after the filing of an application for a certificate of appropriateness, Saturdays, Sundays and legal holidays excluded, the Commission shall determine the estates deemed by it to be materially affected by such application and, unless a public hearing on such application is waived in writing by all persons entitled to notice thereof, shall forthwith cause its secretary to give by mail, postage prepaid, to the applicant, to the owners of all such estates as they appear on the then most recent real estate tax list, and to any person filing written request for notice of hearings, such request to be renewed yearly in December, reasonable notice of a public hearing before the Commission on such application.

(c) As soon as conveniently may be after such public hearing or the waiver thereof, but in all events within thirty (30) days, Saturdays, Sundays and legal holidays excluded, after the filing of the application for the certificate of appropriateness, or within such further time as the applicant may in writing allow, the Commission shall determine whether the proposed construction, reconstruction or alteration of the exterior architectural feature involved will be appropriate to the preservation of the Old Galveston Quarter for the purposes of this Act, and whether, notwithstanding that it may be inappropriate, owing to conditions especially affecting the structure involved, but not affecting the Old Galveston Quarter generally, failure to issue a certificate of appropriateness will involve a substantial hardship to the applicant and such a certificate may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this Act. In passing upon appropriateness, the Commission shall consider, in addition to any other pertinent factors, the historical and architectural value and significance, architectural style, general design, arrangement, texture, material and color of the exterior architectural feature involved and the relationship thereof to the exterior architectural features of other structures in the immediate neighborhood.

(d) If the Commission determines that the proposed construction, reconstruction or alteration of the exterior architectural feature involved will be appropriate, or, although inappropriate, owing to conditions as aforesaid, failure to issue a certificate of appropriateness will involve substantial hardship to the applicant and issuance thereof may be made without substantial detriment or derogation as aforesaid, or if the Commission fails to make a determination within the time hereinbefore prescribed, the secretary of the Commission shall forthwith issue to the applicant a certificate of appropriateness. If the Commission determines that a certificate of appropriateness should not issue, the Commission shall forthwith spread upon its records the reasons for such determination and may include recommendations respecting the proposed construction, reconstruction or alteration. Thereupon the secretary of the Commission shall forthwith notify the applicant of such determination, transmitting to him an attested copy of the reasons and recommendations, if any, spread upon the records of the Commission.

Sec. 7. NOTICE OF DEMOLITION. No person shall demolish any exterior architectural feature now or hereafter in the Old Galveston Quarter until he shall have filed with the secretary of the Commission on such form as may be from time to time prescribed by the Commission a written notice of his intent to demolish such feature and a period of thirty (30) days, Saturdays, Sundays and legal holidays excluded, or such lesser period as the Commission, because the feature is not historically or architecturally significant or otherwise worthy of preservation, may in a particular case determine, shall have expired following the filing of such notice of demolition. Upon the expiration of such period the secretary of the Commission shall forthwith issue to the person filing the notice of demolition a certificate of the expiration of such period.

Sec. 8. EXCLUSIONS. Nothing in this Act shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature now or hereafter in the Old Galveston Quarter; nor shall anything in this Act be construed to prevent the construction, reconstruction, alteration or demolition of any such feature which the Commission shall certify is required by the public safety because of an unsafe or dangerous condition; nor shall anything in this Act be construed to prevent the construction, reconstruction, alteration or demolition of any such feature under a

permit issued by the City of Galveston prior to the effective date of this Act.

Sec. 9. APPEALS. Any applicant aggrieved by a determination of the Commission may, within thirty (30) days after the making of such determination, appeal to the District Court of Galveston County. The Court shall hear all pertinent evidence and shall annul the determination of the Commission if it finds the reasons given by the Commission to be unwarranted by the evidence or to be insufficient in law to warrant the determination of the Commission or make such other decree as justice and equity may require. The remedies provided by this Section shall be exclusive; but the parties shall have all rights of appeal and exception as in other equity cases.

Sec. 10. POWERS OF THE COMMISSION. The Commission may regulate the types and location of business as well as business hours within the Quarter where such regulation does not conflict with any state law or city ordinance and may sell or lease, for periods not to exceed twenty (20) years, real or personal property for use within the Quarter which it may acquire by purchase or gift; provided that the Commission shall have no power of eminent domain.

Sec. 11. BONDS. The Commission shall have no authority to issue bonds.

Sec. 12. ACTION FOR DECLARATORY JUDGMENT. The Commission may bring an action for a declaratory judgment in any District Court in Galveston or Travis Counties, Texas, in order to finally determine any question concerning this Statute.

Sec. 13. ELECTION; PETITION; RETURNS. (a) The powers granted to the Old Galveston Quarter Commission under this Act shall not take effect until an election has been held within the boundaries of the proposed District, and its creation has been approved by the majority of those voting in an election.

(b) A petition shall first be presented to the Commissioners Court signed by a majority of the resident property owners within the Quarter.

(c) The Commissioners Court shall then order an election to be held within the boundaries of the Old Galveston Quarter at which election shall be submitted the following propositions and none other:

"FOR the Old Galveston Quarter."

"AGAINST the Old Galveston Quarter."

(d) A majority of those voting in the Special Election shall be

necessary to carry the proposition. Only resident property owners may vote at such an election. All such elections shall be conducted in the manner provided by the General Election Laws, unless otherwise provided. The Commissioners Court shall name polling places within the Quarter and shall appoint the judges and other necessary election officers.

(e) Immediately after the election each presiding judge shall make returns of the result as provided for in General Elections for state and county officers, and return the ballot boxes to the County Clerk, who shall keep same in a safe place and deliver them together with all returns to the Commissioners Court at its next regular or special session to canvass the vote. If the court finds that the proposition carried, it shall so declare the result and enter the same in its minutes.

Acts 1962, 57th Leg., 3rd C.S., p. 81, ch. 30. Amended by Acts 1963, 58th Leg., p. 1166, ch. 453, Sec. 1-5, eff. Aug. 23, 1963.

Art. 6145-11b. SESQUICENTENNIAL FUND.

Sec. 1. Amounts received from the following sources shall be deposited in a special fund in the State Treasury to be known as the sesquicentennial fund and are appropriated for the purposes contained herein:

(1) licensing fees and royalties authorized by Paragraph (B), Subdivision (8), Section 7, Chapter 84, Acts of the 66th Legislature, 1979 (Article 6145-11, Vernon's Texas Civil Statutes); and

(2) proceeds from the sale of medallions designated by the Texas 1986 Sesquicentennial Commission as lone stars under Article 6145-14a, Revised Statutes.

Sec. 2. After the expiration of Chapter 84, Acts of the 66th Legislature, 1979 (Article 6145-11, Vernon's Texas Civil Statutes), the comptroller of public accounts shall collect proceeds from royalties due under licenses granted by the Texas 1986 Sesquicentennial Commission.

Sec. 3. As amounts from licensing fees, royalties, and the sale of medallions designated as lone stars by the Texas 1986 Sesquicentennial Commission are deposited in the fund:

(1) the Comptroller shall allocate the amounts equally between an account in the fund that may be used only by the Texas Tourist

Development Agency and an account in the fund that may be used only by the Texas Commission on the Arts, until the account of the Texas Commission on the Arts has received $1,261,244; and

(2) after the account for the Texas Commission on the Arts has received $1,261,244, the Comptroller shall allocate the amounts only to the account of the Texas Tourist Development Agency until that account has received $2,291,996; and

(3) after the account for the Texas Tourist Development Agency has received $2,291,996, the Comptroller shall allocate the amounts equally among the account of the Texas Tourist Development Agency, the account of the Texas Commission on the Arts, and an account in the fund that may be used only by the Texas 1986 Sesquicentennial Commission, until the account of the Texas Commission on the Arts has received a total of $7,095,846 from amounts allocated under this subsection and Subdivision (1) of this section;

(4) after the account for the Texas Commission on the Arts has received a total of $7,095,846 from amounts allocated under Subdivisions (1) and (3) of this section, the Comptroller shall allocate the amounts equally between the accounts of the Texas Tourist Development Agency and the Texas 1986 Sesquicentennial Commission until the account of the Texas 1986 Sesquicentennial Commission has received a total of $10,000,000 from amounts allocated under this subdivision and Subdivision (3) of this section or until January 31, 1987, whichever shall first occur.

(5) after the Texas 1986 Sesquicentennial Commission has received a total of $10,000,000 from the amounts allocated under Subdivisions (3) and (4) of this section, the Comptroller shall allocate the amounts only to the account of the Texas Tourist Development Agency until the account of the Texas Tourist Development Agency has received a total of $15,145,604; and

(6) after the Texas Tourist Development Agency has received a total of $15,145,604 from amounts allocated under this section, the Comptroller shall allocate the amounts only to the account of the State Preservation Board.

Sec. 4. (a) Money in the fund allocated to the Texas Tourist Development Agency under Subdivisions (1) and (2) of Section 3 of this article shall be used to publish an official tour guide of the sesquicentennial or for promotional activities for the Texas 1986 Sesquicentennial Commission.

(b) Money in the fund allocated to the Texas Tourist Development

Agency under Subdivisions (3), (4), and (5) of Section 3 of this article shall be used to advertise and promote the sesquicentennial both in and out of the state and for other activities as provided by law.

(c) Money in the fund allocated to the Texas Commission on the Arts under Section 3 of this article shall be used for funding and supporting sesquicentennial projects and programs and to perform any of the functions of the commission.

(d) Not less than one-half the money in the fund allocated to the Texas 1986 Sesquicentennial Commission shall be distributed to local official sesquicentennial committees sanctioned by the commission according to procedures adopted by the commission.

(e) Money in the fund allocated to the Texas 1986 Sesquicentennial Commission that is not distributed to local official sesquicentennial committees under Subsection (d) of this section or used to reimburse the comptroller of public accounts for audit services provided under Section 5 of this article shall be used to advertise and promote the sesquicentennial both in and out of state through interagency contracts with the Texas Tourist Development Agency.

Sec. 5. The comptroller of public accounts may audit any official sesquicentennial licensee or product manufacturer. At the request of the Texas 1986 Sesquicentennial Commission, the comptroller of public accounts shall perform the audit and collect any money due. At the request of the comptroller of public accounts, the attorney general shall sue as necessary to collect the amounts due to the state and uncollected. The comptroller of public accounts shall be reimbursed for services provided under this section from money provided for that purpose under Subsection (e) of Section 4 of this article.

Added by Acts 1985, 69th Leg., ch. 651, Sec. 5, eff. Aug. 26, 1985. Sec. 5 amended by Acts 1986, 69th Leg., 3rd C.S., ch. 26, Sec. 1, eff. Dec. 4, 1986; Sec. 3 amended by Acts 1997, 75th Leg., ch. 1423, Sec. 21.59, eff. Sept. 1, 1997.

Art. 6145-14a. LONE STAR MEDALLIONS. (a) The Texas 1986 Sesquicentennial Commission shall designate a one ounce silver lone star medallion and one, one-half, one-fourth, and one-tenth ounce

gold lone star medallions as official commemorative medallions of the sesquicentennial.

(b) The board shall contract for the production, marketing, and distribution of the medallions.

(c) The board shall deposit the proceeds from the sale of medallions to the credit of the sesquicentennial fund.

Added by Acts 1985, 69th Leg., ch. 651, Sec. 6, eff. Aug. 26, 1985.

TITLE 108. PENITENTIARIES

Art. 6203f. ENCOURAGING COTTON FARMERS TO PURCHASE PLANTING SEED FROM DEPARTMENT OF CORRECTIONS. Resolved by the House of Representatives, the Senate concurring, That as a means toward the development of better quality cotton in Texas, the Prison System of our State, in disposing of its surplus cotton seed, give first consideration to the needs for better planting seed and that the cotton farmers be encouraged to purchase planting seed from the Prison System through their farm agents, Chambers of Commerce and other responsible mediums, and at a price above oil mill quotations sufficient to reimburse the Prison System for the added expense of handling.

Acts 1931, 42nd Leg., p. 925, H.C.R. No. 25.

Art. 6203g. AGREEMENT AUTHORIZED FOR PENITENTIARY SYSTEM TO PRODUCE AND SELL FARM PRODUCTS TO STATE INSTITUTIONS. Therefore, be it resolved by the Senate of Texas, and the House of Representatives concurring, that the Board of Control of the State of Texas and the Board of Commissioners of the State of Texas are hereby authorized, empowered and instructed to enter into an agreement whereby the Penitentiary System will grow, produce and sell farm products to the various State Institutions at a price not to exceed the lowest bid which the Board of Control may receive from competitive bidders for the various products grown and offered for sale by the Penitentiary System of Texas.

Acts 1929, 41st Leg., p. 732, S.J.R. No. 26.

TITLE 109. PENSIONS

Art. 6228. MOTHERS' AID. Any widow who is the mother of a child or children under sixteen years of age, and who is unable to support them and maintain her home, may present to the Commissioners' Court of the county wherein she has resided for the preceding two years a sworn petition for aid showing:

First:--Her name, time and place of her marriage, date of the death of her husband, or date of his confinement in the penitentiary or in an insane asylum, or date of his abandonment of her; names, sex, and the dates and places of their birth.

Second:--Her length or residence in the State, her present residence, and her residence during each of the previous five years.

Third:--All the property belonging to her and to each of her children, including any future or contingent interest she or any of them may have.

Fourth:--The efforts made by her to support her children.

Fifth:--The name, relationship, and address of each of her husband's relatives that may be known.

By "widow", as used herein, means a mother who is widowed by death or divorce, or whose husband has abandoned her for more than the two preceding years, or whose husband is confined in the penitentiary or in a State Hospital for the insane.

A copy of said petition and a notice of the time and place it will be presented to said Court shall be served on or mailed to the County Judge of said county at least five days before the time the court shall be requested in said petition to hear the same. When service is complete said Court shall examine under oath those who desire to be heard, and may subpoena witnesses; or the Court may refer said matter to a Commissioner to be appointed by it to hear said witnesses. Such Commissioner shall make a report to the Court stating the facts as proven before him. If the Court concludes that unless relief is granted the widow will be unable to properly support and educate her children, and that they may become a public charge, it may make an order directing a monthly payment to her, out of the County Funds, for the support of such children, not more than Fifteen ($15.00) Dollars for one child, and Six ($6.00) Dollars additional for each other child. Such allowance shall be discontinued as to any such child who reaches the age of sixteen. The Court shall have the right to refuse any such petition, and its action in so doing shall be final. The Court shall see that any widow receiving such aid is

properly caring for her children. When it is found that she is not properly caring for her children, or that she is an improper guardian for them, or when the Court finds that she no longer needs such aid, it shall thereupon revoke at any time with or without notice any order made pursuant to this Article.

Acts 1917, 35th Leg., p. 313, ch. 120. Amended by Acts 1931, 42nd Leg., p. 425, ch. 256, Sec. 1.

Art. 6228a-5. ANNUITIES OR INVESTMENTS FOR CERTAIN PUBLIC EMPLOYEES; SALARY REDUCTIONS.

Sec. 1. (a) This section and Section 2 of this Act apply to:

(1) the governing boards of state-supported institutions of higher education;

(2) the Texas Higher Education Coordinating Board;

(3) the Texas Education Agency;

(4) the Texas School for the Deaf;

(5) the Texas School for the Blind and Visually Impaired;

(6) the Texas Department of Mental Health and Mental Retardation and the state schools, state hospitals, and other facilities and institutions under its jurisdiction;

(7) the Texas Department of Health and facilities and institutions under its jurisdiction;

(8) the Texas Juvenile Justice Department and facilities and institutions under its jurisdiction; and

(9) the governing boards of Centers for Community Mental Health and Mental Retardation Services, county hospitals, city hospitals, city-county hospitals, hospital authorities, hospital districts, affiliated state agencies, and each of their political subdivisions.

(b) An entity described by Subsection (a) of this section may enter into agreements with the entity's employees for the purchase of annuities or for contributions to any type of investment for the entity's employees as authorized in Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments.

Sec. 2. (a) If an employee of an entity covered by Section 1 of this Act is paid by the Comptroller of Public Accounts, the comptroller may take the action, in regard to that employee, that is

authorized by Subsection (b) of this section. If an employee of an entity covered by Section 1 is not paid by the comptroller, the governing board of the entity may take the action in regard to that employee.

(b) The comptroller or the governing board, as appropriate, may:

(1) reduce the salary of participants when authorized by the participants and shall apply the amount of the reduction to the purchase of annuity contracts or to contributions to any type of investment authorized in Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments, the exclusive control of which will vest in the participants; and

(2) develop a system to allow or require participants to electronically authorize:

(A) participation under this Act;

(B) purchases of annuity contracts; and

(C) contributions to investments.

Sec. 3. (a) A state agency may permit some or all of the employees of the agency to participate in an employer-sponsored program described by Section 457(f) of the Internal Revenue Code of 1986, including subsequent amendments of that law.

(b) Repealed by Acts 2003, 78th Leg., ch. 1111, Sec. 46(10), eff. Sept. 1, 2003.

(c) In this section, "state agency" means a board, office, commission, department, institution, court, or other agency in any branch of state government.

Sec. 4. In this section and in Sections 5, 6, 9, 9A, 9B, 10, 11, and 12 of this Act:

(1) "Educational institution" means a school district or an open-enrollment charter school.

(2) "Eligible qualified investment" means a qualified investment product offered by a company that is eligible to offer the product under Section 6 of this Act.

(3) "Employee" means an employee of an educational institution.

(4) "Qualified investment product" means an annuity or investment that:

(A) meets the requirements of Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments;

(B) complies with applicable federal insurance and securities laws and regulations; and

(C) complies with applicable state insurance and securities laws and rules.

(5) "Salary reduction agreement" means an agreement between an educational institution and an employee to reduce the employee's salary for the purpose of making direct contributions to or purchases of a qualified investment product.

Sec. 5. (a) An educational institution may enter into a salary reduction agreement with an employee of the institution only if the qualified investment product is an eligible qualified investment.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(1), eff. September 1, 2019.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(1), eff. September 1, 2019.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(1), eff. September 1, 2019.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(1), eff. September 1, 2019.

(f) To the greatest degree possible, educational institutions that enter into a salary reduction agreement with employees under this section shall require that contributions to eligible qualified investments be made by automatic payroll deduction and deposited directly in the investment accounts.

Sec. 6. (a) An insurance company is eligible to offer qualified investment products to the employees of educational institutions under this Act if the company satisfies the following criteria:

(1) the company is licensed by the Texas Department of Insurance and is in compliance with minimum capital and surplus requirements, including applicable risk-based capital and surplus requirements prescribed by rules adopted by the department; and

(2) the company has experience in providing qualified investment products and has a specialized department dedicated to the service of qualified investment products, as determined by the educational institution.

(b) A company that offers qualified investment products other than annuity contracts, including a company that offers custodial accounts under Section 403(b)(7), Internal Revenue Code of 1986, is eligible to offer qualified investment products to employees of educational institutions under this Act.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820

), Sec. 1.10(2), eff. September 1, 2019.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(2), eff. September 1, 2019.

(d-1) Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(2), eff. September 1, 2019.

(d-2) Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(2), eff. September 1, 2019.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(2), eff. September 1, 2019.

(f) Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(2), eff. September 1, 2019.

(f-1) Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(2), eff. September 1, 2019.

(g) Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(2), eff. September 1, 2019.

(h) Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(2), eff. September 1, 2019.

(i) Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(2), eff. September 1, 2019.

Sec. 7. Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(3), eff. September 1, 2019.

Sec. 8. Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(4), eff. September 1, 2019.

Sec. 8A. Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(5), eff. September 1, 2019.

Sec. 9. (a) An educational institution may not:

(1) except as provided by Subdivision (8) of this subsection and Subsection (b) of this section, refuse to enter into a salary reduction agreement with an employee if the qualified investment product that is the subject of the salary reduction is an eligible qualified investment;

(2) require or coerce an employee's attendance at any meeting at which qualified investment products are marketed;

(3) limit the ability of an employee to initiate, change, or terminate a qualified investment product at any time the employee chooses;

(4) grant exclusive access to an employee by discriminating against or imposing barriers to any agent, broker, or company that provides qualified investment products under this Act;

(5) grant exclusive access to information about an

employee's financial information, including information about an employee's qualified investment products, to a company or agent or affiliate of a company offering qualified investment products unless the employee consents in writing to the access;

(6) accept any benefit from a company or from an agent or affiliate of a company that offers qualified investment products;

(7) use public funds to recommend a qualified investment product offered by a company or an agent or affiliate of a company that offers a qualified investment product; or

(8) enter into or continue a salary reduction agreement with an employee if the qualified investment product that is the subject of the salary reduction agreement is not an eligible qualified investment without first providing the employee with notice in writing that:

(A) indicates the reason the subject of the salary reduction agreement is no longer an eligible qualified investment; and

(B) clearly states that by signing the notice the employee is agreeing to enter into or continue the salary reduction agreement.

(b) An educational institution may refuse to enter into a salary reduction agreement with an employee if:

(1) the eligible qualified investment product that is the subject of the salary reduction agreement is offered by a company that does not comply with the educational institution's administrative requirements;

(2) the educational institution imposes the administrative requirements uniformly on all companies that offer eligible qualified investment products; and

(3) the administrative requirements are necessary to comply with employer responsibilities imposed by:

(A) Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments;

(B) any other provision of the Internal Revenue Code of 1986 that applies to Section 403(b);

(C) any regulation adopted in relation to a law described by Paragraph (A) or (B) of this subdivision that is effective after December 31, 2007; or

(D) any change to this Act that becomes effective after January 1, 2007.

Sec. 9A. A person, other than an employee of an educational institution, or an affiliate of the person may not enter into or renew a contract under which the person is to provide services for or administer a plan offered by the institution under Section 403(b), Internal Revenue Code of 1986, unless the person:

(1) holds a license or certificate of authority issued by the Texas Department of Insurance;

(2) is registered as a securities dealer or agent or investment advisor with the State Securities Board; or

(3) is a financial institution that:

(A) is authorized by state or federal law to exercise fiduciary powers; and

(B) has sufficient presence in this state to serve the employees of educational institutions who participate in the plan.

Sec. 9B. (a) This section applies to an entity under this Act that enters into a contract with an educational institution to administer a plan offered by the institution under Section 403(b), Internal Revenue Code of 1986.

(b) If a person described by Subsection (a) holds a meeting at which qualified investment products will be marketed to employees of the educational institution, the person must provide representatives of other companies eligible to sell qualified investment products under Section 6 of this Act an opportunity to attend and market their qualified investment products at the meeting.

Sec. 10. (a) A person commits an offense if the person:

(1) sells or offers for sale an investment product that is not an eligible qualified investment and that the person knows will be the subject of a salary reduction agreement;

(2) violates the licensing requirements of Title 13, Insurance Code, with regard to a qualified investment product that the person knows will be the subject of a salary reduction agreement; or

(3) engages in activity described by Subchapter B, Chapter 541, Insurance Code, with regard to a qualified investment product that the person knows will be the subject of a salary reduction agreement.

(b) An offense under this section is a Class A misdemeanor.

(c) If conduct that constitutes an offense under this section also constitutes a criminal offense under the Insurance Code, the actor may be prosecuted under this section or under the Insurance

Code, but not under both this section and the Insurance Code.

Sec. 10A. (a) A person who violates this Act is subject to a civil penalty in an amount that does not exceed:

(1) $10,000 for a single violation; or

(2) $1,000,000 for multiple violations.

(b) For purposes of determining the amount of a civil penalty under this section, the court shall consider the following factors:

(1) the seriousness, nature, circumstances, extent, and persistence of the conduct constituting the violation;

(2) the harm to other persons resulting directly or indirectly from the violation;

(3) cooperation by the person in any inquiry conducted by the state concerning the violation, efforts to prevent future occurrences of the violation, and efforts to mitigate the harm caused by the violation;

(4) the history of previous violations by the person;

(5) the need to deter the person or others from committing such violations in the future; and

(6) other matters as justice may require.

(c) The attorney general may institute an action:

(1) for injunctive relief to restrain a violation by a person who is or who appears to be in violation of or threatening to violate this Act; or

(2) to collect a civil penalty under this section.

(d) An action under this section must be filed in a district court in Travis County.

(e) The attorney general may recover reasonable expenses incurred in obtaining injunctive relief under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

Sec. 11. (a) A person who offers to sell an annuity contract that is or will likely be the subject of a salary reduction agreement shall provide notice to a potential purchaser as provided by this section.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(6), eff. September 1, 2019.

(c) The notice required under this section must be uniform and:

(1) be in at least 14-point type;

(2) contain spaces for:

(A) the name, address, and telephone number of the

agent and company offering the annuity contract for sale;

(B) the name, address, and telephone number of the company underwriting the annuity;

(C) the license number of the person offering to sell the product;

(D) the name of the state agency that issued the person's license;

(E) the name of the company account representative who has the authority to respond to inquiries or complaints; and

(F) with respect to fixed annuity products:

(i) the current interest rate or the formula used to calculate the current rate of interest;

(ii) the guaranteed rate of interest and the percentage of the premium to which the interest rate applies;

(iii) how interest is compounded;

(iv) the amount of any up-front, surrender, withdrawal, deferred sales, and market value adjustment charges or any other contract restriction that exceeds 10 years;

(v) the time, if any, the annuity is required to be in force before the purchaser is entitled to the full bonus accumulation value;

(vi) the manner in which the amount of the guaranteed benefit under the annuity is computed;

(vii) whether loans are guaranteed to be available under the annuity;

(viii) what restrictions, if any, apply to the availability of money attributable to the value of the annuity once the purchaser is retired or separated from the employment of the employer;

(ix) the amount of any other fees, costs, or penalties;

(x) whether the annuity guarantees the participant the right to surrender a percentage of the surrender value each year, and the percentage, if any; and

(xi) whether the annuity guarantees the interest rate associated with any settlement option; and

(3) state, in plain language:

(A) that the company offering the annuity must comply with Section 6 of this Act and that the annuity must be a qualified investment product;

(B) the civil remedies available to the employee;

(C) that the employee may purchase any eligible qualified investment through a salary reduction agreement;

(D) the name and telephone number of the Texas Department of Insurance division that specializes in consumer protection; and

(E) the name and telephone number of the attorney general's division that specializes in consumer protection.

(d) A variable annuity must be accompanied by:

(1) a notice that includes any item listed in Subsection (c) of this section that is applicable to variable annuities;

(2) the prospectus; and

(3) any other purchasing information required by law.

(e) An equity-based index contract must state in plain language how the annuity contract will be credited with growth.

(f) If a notice and other information required under this section is not provided, any annuity contract for which the notice is required is voidable at the discretion of the purchaser. Not later than the 30th day after the date an employee notifies the seller in writing of the employee's election to void the contract, the seller shall refund to the employee:

(1) the amount of all consideration paid to the purchaser; and

(2) 10 percent interest up to the date the employee provides the notice to the seller.

(g) A seller who receives a refund request under this section is not required to make a refund otherwise required by this section if, not later than the 30th day after the date the seller receives a request for a refund from the employee, the seller provides a copy of the notice signed by the employee.

Sec. 12. A company that offers an eligible qualified investment that is subject to a salary reduction agreement shall require that each of its representatives are properly licensed and qualified, by training and continuing education, to sell and service the company's eligible qualified investments.

Sec. 13. Repealed by Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(7), eff. September 1, 2019.

Acts 1962, 57th Leg., 3rd C.S. p. 60, ch. 22, Sec. 1. Amended by Acts 1969, 61st Leg., p. 2297, ch. 774, Sec. 2, eff. Sept. 1, 1969;

Acts 1971, 62nd Leg., p. 925, ch. 139, Sec. 1, eff. May 10, 1971; Acts 1971, 62nd Leg., p. 2372, ch. 733, Sec. 1, eff. June 8, 1971; Acts 1981, 67th Leg., p. 1862, ch. 441, Sec. 1, eff. June 11, 1981; Acts 1983, 68th Leg., p. 188, ch. 44, art. IV, Sec. 6, eff. April 26, 1983; Acts 1985, 69th Leg., ch. 740, Sec. 1, eff. Aug. 26, 1985; Acts 1993, 73rd Leg., ch. 449, Sec. 6, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 791, Sec. 53, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1340, Sec. 8, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1341, Sec. 7, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1229, Sec. 21, 22, 23, eff. Sept. 1, 2001.

Sec. 3(b) repealed by Acts 2003, 78th Leg., ch. 1111, Sec. 46(10), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 715 (H.B. 2341), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 17, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 18, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 19, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 20, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 21, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 22, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 23, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 24, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 25, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1177 (H.B. 3480), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1177 (H.B. 3480), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1177 (H.B. 3480), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1177 (H.B. 3480), Sec. 4, eff.

September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1177 (H.B. 3480), Sec. 5, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1177 (H.B. 3480), Sec. 6, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1177 (H.B. 3480), Sec. 7, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 148, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.01, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.02, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.03, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.04, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.05, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.06, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.07, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.08, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.09, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(1), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(2), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(3), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(4), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(5), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(6), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 203 (H.B. 2820), Sec. 1.10(7),

eff. September 1, 2019.

Art. 6228a-6. ADMINISTRATION OF SOCIAL SECURITY PROGRAMS BY EMPLOYEES RETIREMENT SYSTEM.

Section 1. [Amends Vernon's Ann.Civ.St. arts. 695g, Sec. 1(d), 2 and 5 and 695h, Sec. 1(d) and 2 and V.T.C.A., Education Code Sec. 17.91.]

Sec. 2. TRANSFER OF ADMINISTRATION FROM DEPARTMENT OF PUBLIC WELFARE; CONTRACTS AND AGREEMENTS TO REMAIN IN FORCE AND EFFECT; SUCCESSION TO RIGHTS, POWERS, DUTIES, ETC. The operation and administration of the programs providing federal social security coverage for: (1) employees of counties, municipalities, and other political subdivisions of the State of Texas (Chapter 500, Acts of the 52nd Legislature, 1951, as amended (Article 695g, Vernon's Texas Civil Statutes)); (2) state employees (Chapter 467, Acts of the 54th Legislature, 1955, as amended (Article 695h, Vernon's Texas Civil Statutes)); and (3) employees of County Board of School Trustees and County School Superintendents (Section 17.91, Texas Education Code) shall be and are hereby transferred effective September 1, 1975, from the State Department of Public Welfare to the Employees Retirement System of Texas. All contracts and agreements in existence on the effective date of the transfer between the State Department of Public Welfare and the United States government or any and all local political subdivisions of the State of Texas or any other governmental entity shall remain in full force and effect and, upon validation by the Employees Retirement System of Texas, shall become effective contracts or agreements between the Employees Retirement System of Texas and such United States government or any agency thereof or any political subdivisions or other governmental entity of the State of Texas.

The Employees Retirement System of Texas shall succeed to and be vested with all the rights, powers, duties, personnel, property records, trust funds, and appropriations now held by the State Department of Public Welfare for the operation and administration of the social security programs.

Sec. 3. EMPLOYEES: TRANSFER, APPOINTMENT, DUTIES, QUALIFICATIONS AND COMPENSATION. All personnel employed in the Social Security Division of the State Department of Public Welfare

are transferred to the Employees Retirement System of Texas. The system shall appoint all employees and shall prescribe their duties and qualifications for employment. The salaries and compensations of all employees shall be fixed by the Employees Retirement System of Texas commensurate with prevailing rates for similar state positions.

Sec. 4. TRANSFER OF PERSONAL PROPERTY AND EQUIPMENT. All personal property and equipment purchased out of the Social Security Administration Account now in use by the Social Security Division of the State Department of Public Welfare for the operation and administration of the program are hereby transferred to the Employees Retirement System of Texas.

Sec. 5. TRANSFER OF TRUST FUNDS. All trust funds created for social security purposes and specifically those known as the Social Security Fund Account identified in the state comptroller's records as Fund No. 913 and the Social Security Administration Account identified in the state comptroller's records as Fund No. 929 are hereby transferred to the Employees Retirement System of Texas.

Sec. 6. NEGOTIATION FOR AND ACQUISITION OF LANDS, BUILDINGS AND FACILITIES. The Employees Retirement System of Texas is hereby authorized to negotiate for and to acquire from the United States government or any agency thereof or from any source whatever by gift, purchase, or leasehold for and on behalf of the State of Texas for use in the state service and in the operation and administration of the federal social security program as it now exists, or as it may hereafter be amended, any lands, buildings, and facilities within the State of Texas and any personal property and equipment wherever located and to take title thereto for and in the name of the State of Texas.

Sec. 7. USE OF TRUST FUNDS. Employees retirement system trust funds shall not be used in any manner or at any time for the administration of the social security trust funds or programs provided for herein.

Sec. 8. EFFECTIVE DATE. This Act shall become effective September 1, 1975.

Sec. 9. REPEAL OF CONFLICTING LAWS; SAVING PROVISIONS. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict only. It is expressly provided, however, that Chapter 500, Acts of the 52nd Legislature, 1951, as amended (Article 695g, Vernon's Texas Civil Statutes), Chapter 467, Acts of the 54th Legislature, 1955, as amended (Article 695h, Vernon's Texas

Civil Statutes), and Section 17.91, Texas Education Code, shall continue in full force and effect except wherein they conflict with this Act and, more particularly, those portions of those articles placing the operation and administration of the federal social security program under the State Department of Public Welfare, and wherever any power, duty, function, or responsibility is placed upon the executive director (commissioner) of public welfare, it shall be vested in the Employees Retirement System of Texas.

Acts 1975, 64th Leg., p. 966, ch. 366, Sec. 2 to 9, eff. Sept. 1, 1975.

Art. 6228d. DEATH BEFORE RETIREMENT UNDER COUNTY RETIREMENT SYSTEMS.

Sec. 1. Any member of a retirement, disability and death compensation fund established by any county of this State pursuant to Section 62 of Article XVI of the Constitution of Texas, by written designation filed in such form and with such officer or employee as the Commissioners Court shall prescribe, may provide that the contributions made by such member to such fund, together with interest (if any) assigned to such contributions under such plan, shall be paid, in the event of the death of such member before retirement with an allowance of benefits from said fund, to such beneficiary as may be named by him in such written designation. The member may change the beneficiary so designated, or revoke a designation previously made by filing with the Commissioners Court, or such officer or employee as may be designated by such Court, a notice in writing in such form as the Court may prescribe, of such change or revocation.

In the event the member dies before such retirement, without so designating a beneficiary to receive his accumulated contributions and interest if any, or in the event the beneficiary so designated predeceases the member, such sums shall be paid to his estate. Payment of the accumulated contributions and interest of a member to the executor or administrator of his estate, or to his designated beneficiary, shall discharge the fund and its administrative officers from any other or further liability therefor.

Sec. 2. The provisions of this Act shall apply to all such

retirement, disability and death compensation funds, whether such funds were established prior to the passage of this Act or subsequent to the passage of this Act.

Acts 1949, 51st Leg., p. 1174, ch. 588. Amended by Acts 1951, 52nd Leg., p. 230, ch. 136.

Art. 6228h. ASSUMPTION OF PENSION LIABILITIES OF PARTICIPATING SUBDIVISION BY ANNEXING GOVERNMENTAL ENTITY. Should any participating subdivision as defined under the provisions of Chapter 127, Acts of the 60th Legislature, Regular Session, 1967, as amended, establishing and regulating the Texas County and District Retirement System, be annexed into, merged with, or in any manner absorbed by a municipality or other governmental entity, such succeeding entity shall assume, provide for and continue all existing pension rights of the employees of such subdivision, and shall further succeed to the rights of such subdivision in the assets of such system.

Acts 1971, 62nd Leg., p. 992, ch. 179, Sec. 1, eff. Aug. 30, 1971.

Art. 6228j. RETIREMENT, DISABILITY AND DEATH BENEFIT SYSTEMS FOR APPOINTIVE COUNTY EMPLOYEES. (a) A county may create a retirement, disability, and death benefit system for its appointive officers and employees if a majority of the qualified voters of the county voting on the proposition approve the creation at an election called for that purpose and advertised in at least one newspaper of general circulation in the county once a week for four consecutive weeks before the election is held. Each member of a system shall contribute to the system an amount determined by the county, but not more than five percent of the member's annual compensation paid by the county. The county shall contribute for each member an equal amount.

(b) The assets of a county system, after a sufficient portion is set aside each year to pay benefits as they accrue, shall be invested in bonds issued or guaranteed by the United States, this state, or counties or cities of this state.

Acts 1975, 64th Leg., p. 1127, ch. 426, Sec. 1, eff. Sept. 1, 1975.

Art. 6243a-1. PENSION SYSTEM FOR POLICE OFFICERS AND FIREFIGHTERS IN CERTAIN CITIES.

PART 1. PURPOSE

Sec. 1.01. AMENDMENT, RESTATEMENT, AND CONSOLIDATION. (a) The purpose of this article is to restate and amend the provisions of a former law governing the pension funds for police officers and fire fighters in certain municipalities (Chapter 4, Acts of the 43rd Legislature, 1st Called Session, 1933, also known as Article 6243a) having previously been amended and restated to permit the consolidation of the terms of certain pension plans created under Sections 1, 11A, and 11B of that Act for the purpose of simply and accurately reflecting the joint administration of the plans.

(b) This article does not take away or reduce any accrued benefit contained in the plans created under former Article 6243a or under this article as it existed on or before August 31, 2017.

PART 2. GENERAL PROVISIONS

Sec. 2.01. DEFINITIONS. In this article:

(1) "415 compensation" means a member's wages, salary, and other amounts received for personal services rendered in the course of employment with the city during a limitation year and permitted to be treated as compensation for purposes of Section 415(c) of the code, including differential wage payments described in Section 414(u)(12) of the code. The term does not include amounts picked up under Section 4.03(i) of this article.

(2) "Active service" means any period that a member receives compensation as a police officer or fire fighter from either department for services rendered.

(3) "Actuarial equivalent" means a form of benefit differing in time, duration, or manner of payment from a standard benefit payable under this article but having the same value when computed using the assumptions set forth in this article.

(4) "Alternate payee" has the meaning given the term by Section 414(p) of the code or any successor provision.

(5) "Alternative investment" means an investment in an asset other than a traditional asset. The term includes an investment in private equity funds, private real estate transactions, hedge funds, and infrastructure.

(6) "Annual additions" means the sum of the following amounts credited to a member's account under any defined contribution plan maintained by the city for the limitation year:

(A) city contributions;

(B) member contributions, other than rollover contributions from a plan maintained by any employer other than the city;

(C) forfeitures; and

(D) amounts allocated after March 31, 1984, to an individual medical benefit account, as defined in Section 415(l)(2) of the code, that is part of a pension or annuity plan maintained by the city.

For any limitation year beginning before January 1, 1987, only that portion of member contributions equal to the lesser of member contributions in excess of six percent of 415 compensation or one-half of member contributions to the combined pension plan or any qualified defined contribution plan maintained by the city is treated as annual additions.

(7) "Annual benefit" means the aggregate benefit attributable to city and member contributions payable annually under the combined pension plan, or any plan maintained by the city, exclusive of any benefit not required to be considered for purposes of applying the limitations of Section 415 of the code to the combined pension plan, payable in the form of a straight life annuity beginning at age 62 with no ancillary benefits. Solely for purposes of computing the limitations under the combined pension plan, benefits actually payable to a pensioner are adjusted to the actuarial equivalent of a straight life annuity pursuant to Section 415(b) of the code even though no member may actually receive a benefit in the form of a straight life annuity.

(8) "Article 6243a" means Chapter 4, Acts of the 43rd Legislature, 1st Called Session, 1933 (former Article 6243a, Vernon's Texas Civil Statutes), pertaining to a pension system for police officers, fire fighters, and fire alarm operators in certain cities.

(9) "Assignment pay" means monthly pay, in addition to salary, granted to a Group B member and authorized by the city council for the performance of certain enumerated duty assignments.

(10) "Base pay" means the maximum monthly civil service pay from time to time established by the city for a person who holds the rank of "police officer" in the city's police department or the rank of "fire and rescue officer" in the city's fire department, exclusive of any other form of compensation. The term does not include compensation paid by the city to a person for prior periods of

service or compensation that otherwise constitutes back pay unless the compensation is eligible back pay. The board may adopt rules and procedures necessary to include eligible back pay as base pay for purposes of this definition, including rules regarding how increases in benefits will be determined and administered.

(11) "Base pension" means the amount of retirement, death, or disability benefits as determined at the earliest of the time a Group B member and, solely for the purposes of Section 6.12 of this article, a Group A member:

(A) begins participation in DROP;

(B) leaves or left active service;

(C) dies; or

(D) becomes entitled to a disability pension under the combined pension plan.

Solely for purposes of this definition, when a member becomes entitled to a disability pension, the base pension shall be determined as of the date on which the disability pension begins.

(12) "Board" means the board of trustees created under Section 3.01 of this article for the purpose of administering the pension system.

(13) "Child" means a person whose parent, as recognized under the laws of this state, is a primary party.

(14) "City" means each municipality having a population of more than 1.18 million and located predominantly in a county that has a total area of less than 1,000 square miles.

(15) "City attorney" means the chief legal officer of a city.

(16) "City council" means the governing body of the city.

(17) "City manager" means the city manager of a city or the city manager's designee and includes, to the extent of any designation, an interim or acting city manager, chief financial officer, budget director, or assistant city manager. If a city does not have an individual serving in a position otherwise described by this subdivision, "city manager" means the mayor of that city.

(18) "City service incentive pay" means annual incentive pay, adjusted by the city from time to time, in addition to the salary of a member granted to the member under the authority of the city charter and received by the member during active service.

(19) "Code" means the United States Internal Revenue Code of 1986, as amended.

(20) "Combined pension plan" means any pension plan created pursuant to this article before September 1, 2017.

(21) "Computation pay" shall be used in determining the amount of the city's contribution under Section 4.02(d) of this article and a Group B member's contribution under Section 4.03(d) of this article and in determining the base pension to be paid to a Group B member or the benefits to be paid to the member's qualified survivors and means the sum of the following:

(A) the biweekly rate of pay of a member for the highest civil service rank the person holds, from time to time, as a result of a competitive examination; plus

(B) the educational incentive pay of a member, computed on a biweekly basis; plus

(C) the longevity pay of a member, as authorized by the legislature, computed on a biweekly basis; plus

(D) the city service incentive pay, computed on a biweekly basis, of a member.

The term includes only amounts actually paid in salary or payments made instead of salary to the member and member contributions picked up by the city, and does not include any imputed pay. Furthermore, any compensation received by a member, other than that noted in Paragraphs (A)-(D) of this subdivision (for example, compensation for overtime work, certification pay, and the pay a member would receive from the city in the form of assignment pay), will not be considered in determining the computation pay of a member. Any lump-sum payments for compensatory time, unused sick leave, unused vacation time, or city service incentive pay payable after a member leaves active service, dies, becomes disabled, or resigns, or after any other type of termination may not be considered in determining the computation pay of any member. Computation pay for a member for any given period is determined on the biweekly rates of pay due the member for the entire period. The term does not include compensation paid by the city to a person for prior periods of service or compensation that otherwise constitutes back pay unless the compensation is eligible back pay. The board may adopt rules and procedures necessary to include eligible back pay as computation pay for purposes of this definition, including rules regarding how increases in benefits will be determined and administered.

(22) "Department" means either the police department of the city, the fire department of the city, or both the police and fire

departments of the city together.

(23) "Dependent parent" means a natural parent or parent who adopted a primary party and who immediately before the death of a primary party received over half of the parent's financial support from the primary party.

(24) "Disability retirement" means any period that a pensioner receives periodic disability compensation or a disability pension.

(25) "DROP" means the deferred retirement option plan established in accordance with Section 6.14 of this article.

(26) "Educational incentive pay" means incentive pay designed to reward completion of certain hours of college credit, adjusted by the city from time to time, that is paid to a member in addition to the member's salary.

(27) "Eligible back pay," except as otherwise provided by this definition, means additional compensation paid by the city to a member or pensioner:

(A) that constitutes back pay to the member's or pensioner's prior period of service and is otherwise considered taxable wages paid by the city to the member or pensioner for federal income tax purposes; and

(B) for which the pension system receives:

(i) an amount equal to the aggregate member and city contributions that the pension system would have collected with respect to the compensation for all time periods relating to the back pay compensation; and

(ii) interest, calculated using the pension system's actuarial rate of return assumptions in effect for the periods relating to the back pay, compounded annually, on the contribution amounts for the period from the date that the contributions would have been received if the back pay compensation had been paid during the relevant periods of prior service through the date the amount relating to the contributions for back pay is actually received by the pension system.

The term does not include any additional compensation paid by the city to a member or pensioner wholly or partly or directly or indirectly as the result of litigation instituted to recover back pay.

The pension system is not obligated to collect the additional contributions or interest described in Paragraph (B) of this

subdivision from the member, pensioner, or city. The pension system may not recognize back pay as eligible back pay until the contributions and interest described in Paragraph (B) of this subdivision have been received.

(28) "Executive director" means the person designated by the board to supervise the operation of the pension system.

(29) "Fund" means all funds and property held to provide benefits to all persons who are or who may become entitled to any benefits under any plan within the pension system, together with all income, profits, or other increments.

(30) "Group A member" means any police officer or fire fighter included in Group A membership under Section 5.01(a)(1) of this article.

(31) "Group B member" means any police officer or fire fighter included in Group B membership under Section 5.01(a)(2) of this article.

(32) "Health director" means any qualified physician designated from time to time by the board.

(33) "Limitation year" means the plan year of the combined pension plan and any defined benefit plan or defined contribution plan of the city in which a member participates.

(34) "Longevity pay" means pay in addition to the salary of a member granted under Section 141.032, Local Government Code, for each year of active service completed by a member in either department.

(35) "Member" means both Group A and Group B members.

(36) "Member's account" means an account established and maintained for a member with respect to the member's total interest in one or more defined contribution plans under this article or maintained by the city resulting in annual additions.

(37) "Nominations committee" means the nominations committee established under Section 3.011 of this article.

(38) "Old plan" means any pension plan created pursuant to Section 1 of Article 6243a.

(39) "Pensioner," "Group A pensioner," or "Group B pensioner" means a former member of the pension system who is on either a service or disability retirement.

(40) "Pension service" means the time, in years, and prorated for fractional years, that a member has contributed to the fund under the terms of the combined pension plan or any plan within

the pension system, reduced to reflect refunds that have been received and not fully repaid.

(41) "Pension system" means the fund and any plans created pursuant to this article or Article 6243a and that are intended to be qualified under Section 401(a) of the code.

(42) "Plan A" means any plan created pursuant to Section 11A of Article 6243a.

(43) "Plan B" means any plan created pursuant to Section 11B of Article 6243a.

(44) "Police officer" or "fire fighter" means, as appropriate, a police officer, fire fighter, fire and rescue officer, fire alarm operator, fire inspector, apprentice police officer, apprentice fire fighter, or similar employee of either department as defined in the classifications of the human resources department of the city.

(45) "Primary party," "Group B primary party," or "Group A primary party" means a member or pensioner.

(46) "Qualified actuary" means either:

(A) an individual who is a Fellow of the Society of Actuaries, a Fellow of the Conference of Consulting Actuaries, or a member of the American Academy of Actuaries; or

(B) a firm that employs one or more persons who are Fellows of the Society of Actuaries, Fellows of the Conference of Consulting Actuaries, or members of the American Academy of Actuaries and are providing services to the pension system.

(47) "Qualified domestic relations order" has the meaning provided by Section 414(p) of the code.

(48) "Qualified survivor" means a person who is eligible to receive death benefits after the death of a primary party and includes only:

(A) a surviving spouse, if the spouse was continuously married to the primary party from the date when the primary party either voluntarily or involuntarily left active service as a member through the date of the primary party's death;

(B) all surviving, unmarried children who are either under 19 years of age or have a disability, as determined by the board under Section 6.06(o-2) of this article, and who were:

(i) born or adopted before the primary party either voluntarily or involuntarily left active service; or

(ii) born after the primary party left active

service if the mother was pregnant with the child before the primary party left active service; and

(C) a surviving dependent parent of a primary party if the primary party is not survived by a spouse or child eligible for benefits.

(49) "Service retirement" means any period that a pensioner receives a retirement pension but does not include any period of disability retirement.

(50) "Spouse" means the person to whom a primary party is legally married under the laws of this state or any other state.

(51) "Traditional asset" includes stocks, bonds, and cash.

(52) "Trustee" means a member of the board.

(53) "Two-thirds vote," in reference to a vote of all the trustees, means a vote of 8 of the 11 trustees of the board.

Sec. 2.02. ACTUARIAL ASSUMPTIONS. (a) If the amount of any benefit or contribution is to be determined on the basis of actuarial assumptions that are not otherwise specifically set forth for that purpose in this article, the actuarial assumptions to be used are those earnings and mortality assumptions being used on the date of the determination by the pension system's qualified actuary and approved by the board.

(b) The actuarial assumptions being used at any particular time shall be attached by the executive director as an addendum to this article and treated for all purposes as a part of any plan created by this article. The executive director shall promptly update any addendum to conform to any changed actuarial assumptions approved by the board.

(c) The actuarial assumptions may be changed by the pension system's qualified actuary at any time if approved by the board, but no such change in actuarial assumptions may result in any decrease in benefits accrued as of the effective date of the change.

Sec. 2.025. INDEPENDENT ACTUARIAL ANALYSIS AND LEGISLATIVE RECOMMENDATIONS. (a) Before July 1, 2024, the State Pension Review Board shall select an independent actuary who the board shall hire to perform an actuarial analysis of the most recently completed actuarial valuation of the pension system. The independent actuary shall submit the analysis to the State Pension Review Board and the board not later than October 1, 2024. The analysis must include the independent actuary's:

(1) conclusion regarding whether the pension system meets

State Pension Review Board pension funding guidelines; and

(2) recommendations regarding changes to benefits or to member or city contribution rates.

(b) Subject to Subsection (d) of this section, not later than November 1, 2024, the board shall by rule adopt a plan that:

(1) complies with funding and amortization period requirements applicable to the pension system under Subchapter C, Chapter 802, Government Code; and

(2) takes into consideration the independent actuary's recommendations under Subsection (a)(2) of this section.

(b-1) The board shall provide a copy of the analysis prepared under Subsection (a) of this section and a summary of any rules adopted by the board under Subsection (b) of this section to the State Pension Review Board.

(c) Not later than December 1, 2024, the State Pension Review Board shall submit a report to the legislature regarding actions taken under this section. The report required under this section must include a copy of the analysis prepared under Subsection (a) of this section and a summary of rules adopted by the board under Subsection (b) of this section.

(d) Notwithstanding any other provision of this article, a rule adopted by the board under Subsection (b) of this section that conflicts with a provision of this article remains in effect until:

(1) a law that is enacted by the legislature and becomes law preempts the rule; or

(2) the board amends the rule and the amendment takes effect, provided the board may only amend the rule if the pension system complies with the funding and amortization period requirements applicable to the pension system under Subchapter C, Chapter 802, Government Code.

(e) This section expires September 1, 2025.

Sec. 2.03. REFERENCES TO CERTAIN LAW. A reference to a statute made in this article includes a reference to any regulation, rule, order, or notice made by a governmental entity with the authority under law to adopt the regulation, rule, order, or notice, and on which the governmental entity intends persons to rely, as appropriate.

PART 3. ADMINISTRATION

Sec. 3.01. BOARD OF TRUSTEES. (a) The pension system shall be administered by the board. The board shall execute its fiduciary

duty to hold and administer the assets of the fund for the exclusive benefit of members and their beneficiaries under Section 802.203, Government Code, Section 67(f), Article XVI, Texas Constitution, and any other applicable law, in a manner that ensures the sustainability of the pension system for purposes of providing current and future benefits to members and their beneficiaries.

(b) Subject to Subsections (b-1) and (b-2) of this section, the board consists of 11 trustees who shall be selected and shall serve as follows:

(1) six trustees appointed by the mayor, in consultation with the city council;

(2) three trustees elected under rules adopted by the board by the members and pensioners of the pension system from a slate of nominees, in a number determined under the rules, selected and vetted by the nominations committee;

(3) subject to Subsection (b-3) of this section, one trustee who is a current or former police officer of the city nominated and elected by members of the pension system under rules adopted by the board; and

(4) subject to Subsection (b-3) of this section, one trustee who is a current or former fire fighter of the city nominated and elected by members of the pension system under rules adopted by the board.

(b-1) To be appointed or elected a trustee under this section, a person:

(1) must have demonstrated financial, accounting, business, investment, budgeting, real estate, or actuarial expertise; and

(2) may not be an elected official of the city.

(b-2) To be appointed or elected a trustee under Subsection (b)(1) or (2) of this section a person may not be an active member or pensioner.

(b-3) If the board determines that it is not possible to nominate or elect a trustee under Subsection (b)(3) or (4) of this section who meets the requirements of Subsection (b-1) of this section, the board shall notify the nominations committee and the nominations committee shall select, vet, and nominate a slate of persons, the number of which is determined by board rule, who meet the requirements of Subsection (b-1) of this section, and the members of the pension system shall elect a trustee from the slate of nominees to represent the interests of police officers or fire

fighters, as appropriate, of the city on the board. The nomination and election of a trustee under this subsection may be made without regard to whether the trustee is qualified under Subsection (b)(3) or (4), as applicable, of this section.

(b-4) A trustee is not required to reside in a particular city or county of this state.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.52(1), eff. September 1, 2017.

(d) A vacancy on the board in a trustee position under Subsection (b)(1) or (2) of this section shall be filled in the same manner as the original appointment, or election. The board by rule shall determine the manner by which a vacancy in a trustee position under Subsection (b)(3) or (4) of this section is filled.

(e) The mayor shall determine whether all trustees appointed under Subsection (b)(1) of this section hold office for staggered two-year terms or staggered three-year terms. The nominations committee shall determine whether all trustees elected under Subsection (b)(2), (3), or (4) of this section hold office for staggered two-year terms or staggered three-year terms. A trustee appointed or elected, as applicable, under Subsection (b)(1) or (2) of this section may not serve for more than six consecutive years on the board.

(f) The election of the trustees under Subsection (b)(2), (3), or (4) of this section, including an election under Subsection (b-3) of this section to fill a trustee position under Subsection (b)(3) or (4) of this section, shall be held under the supervision of the board, and the board shall adopt such rules governing the election procedure as it considers appropriate, as long as the rules are consistent with generally accepted principles of secret ballot and majority rule. The rules adopted by the board shall be recorded in the minutes of the board and made available to the members of any pension plan within the pension system.

(g) The board shall, in June of each odd-numbered year, elect from among its trustees a chairman, vice chairman, and a deputy vice chairman, each to serve for two-year terms. In addition, the board may elect, if it so chooses, a second deputy vice chairman to serve during the term of the incumbent chairman. The vice chairman shall be authorized to act in the place of the chairman in all matters pertaining to the board. In the absence of both the chairman and the vice chairman, the deputy vice chairman shall be authorized to act.

In the absence of the chairman, vice chairman, and deputy vice chairman, the duties shall fall to the second deputy vice chairman.

(h) The executive director, or in the executive director's absence a member of the administrative staff designated by the board, shall serve as the secretary of the board.

(i) The board shall serve without separate compensation from the fund, but a trustee is entitled to reimbursement for travel expenses and, if applicable, to any appropriate compensation from the city as if the trustee were performing the trustee's regular functions for the police or fire department or for the city. The board shall meet not less than once each month and may meet at any time on the call of its chairman.

(j) The board has full power to make rules pertaining to the conduct of its meetings and to the operation of the pension system as long as its rules are not, subject to Subsections (j-1) and (j-2) of this section, inconsistent with the terms of this article, any pension plan within the pension system, or the laws of this state or the United States to the extent applicable. A board meeting may be held by telephone conference call or by videoconference call in accordance with Sections 551.125 and 551.127, Government Code, except that Section 551.125(b), Government Code, does not apply.

(j-1) Subject to Subsection (o)(2) of this section, the board may adopt a rule that conflicts with this article:

(1) to ensure compliance with the code, including Section 415 of the code, and other applicable federal law;

(2) subject to Subsections (j-5) through (j-8) of this section, to amortize the unfunded actuarial accrued liability of the pension system within a period that does not exceed 35 years, if the board determines the rule is appropriate based on the evaluations required under Subsection (j-5) of this section; or

(3) subject to Subsections (j-6) and (j-7) of this section and notwithstanding any other law, to increase the benefits provided under this article in any manner the board determines appropriate if the increase will not cause the amortization period of the unfunded actuarial accrued liability of the pension system to exceed 25 years, after taking into account the impact of the increase.

(j-2) Except as provided by Subsection (j-1) of this section or Section 4.02(b) of this article, a provision of any plan provided by the pension system may only be amended if approved by the board. An amendment described by this subsection:

(1) may not cause the amortization period of the unfunded actuarial accrued liability of the pension system to exceed 35 years, after taking into account the impact of the amendment, as determined by the board and reviewed by the State Pension Review Board; and

(2) is not required to be ratified by the legislature.

(j-3) The board may correct any defect, supply any omission, and reconcile any inconsistency that may appear in this article in a manner and to the extent that the board believes would:

(1) be expedient for the administration of the pension system;

(2) be for the greatest benefit of all members, pensioners, and qualified survivors; and

(3) not adversely affect the benefits of a member, pensioner, or qualified survivor.

(j-4) The board has full discretion and authority to construe and interpret the combined pension plan and to do all acts necessary to carry out the purpose of the combined pension plan. A decision of the board is final and binding on all affected parties.

(j-5) Not later than January 1, 2018, the board shall conduct an evaluation of:

(1) how benefits are computed under this article to identify potential means of abusing the computation of benefits to inflate pension benefits received by pensioners; and

(2) the impact, including the impact on the combined pension plan, of establishing one or more alternative benefit plans, including a defined contribution plan or a hybrid retirement plan that combines elements of both a defined benefit plan and a defined contribution plan, for newly hired employees of the city and for members who voluntarily elect to transfer to an alternative benefit plan.

(j-6) The board may not adopt a rule under Subsection (j-1)(2) or (3) of this section unless the rule has first been reviewed by the State Pension Review Board and the State Pension Review Board finds that implementation of a rule under:

(1) Subsection (j-1)(2) of this section complies with the amortization period prescribed by that subdivision and Subsection (j-8) of this section; or

(2) Subsection (j-1)(3) of this section complies with the amortization period prescribed by that subdivision.

(j-7) The board shall provide the State Pension Review Board

with a copy of a proposed rule for purposes of Subsection (j-6) of this section at least 90 days before the date the board intends to implement the rule.

(j-8) The board may not adopt a rule under Subsection (j-1)(2) of this section based on an evaluation under Subsection (j-5)(2) of this section if the board determines implementation of the rule would cause the amortization period of the unfunded actuarial accrued liability of the combined pension plan or any plan established under this article by the pension system to exceed 35 years, after taking into account implementation of the rule.

(j-9) At least twice each year, the board shall have a meeting to receive public input regarding the pension system and to inform the public about the health and performance of the pension system. The State Pension Review Board is entitled to all documents and other information provided to the public or that are the basis for information provided to the public, as determined by the State Pension Review Board, for purposes of this subsection and shall independently review the information to ensure its validity.

(j-10) An employee or other agent acting on behalf of the pension system or the city must certify to the State Pension Review Board that any information provided by the pension system or city, as appropriate, under this article or other law is accurate and based on realistic assumptions.

(k) The board has full power, through the chairman, to issue process for witnesses and to administer oaths to witnesses and examine witnesses as to any matter affecting retirement, disability, or death benefits under any pension plan within the pension system, and to compel witnesses to testify. In addition, the board may request investigative services from either department in connection with any matter before the board.

(l) The board has the responsibility for the administration of the pension system and shall order payment from the fund in accordance with the terms of the appropriate plans within the pension system. Money from the fund may not be paid except on order of the board.

(m) The board has full power to invest the assets of the fund in accordance with Section 4.07 of this article.

(n) Six trustees of the board constitute a quorum at any meeting.

(o) No action may be taken by the board except at a meeting.

Except as otherwise specifically provided by this article or other law:

(1) no action shall be taken during a board meeting without the approval of a majority of the trustees of the board; and

(2) no action otherwise authorized by this article or other law may be taken that establishes an alternative benefit plan, reduces the city contribution rate, increases the member contribution rate, or reduces benefits, including accrued benefits, without the approval of at least a two-thirds vote of all the trustees of the board.

(o-1) Only actions of the board taken or approved of during a meeting are binding on the board, and no other written or oral statement or representation made by any person is binding on the board or the pension system.

(p) The board may file suit on behalf of the pension system in a court of competent jurisdiction regardless of the court's location. The board has sole authority to litigate matters on behalf of the pension system. Notwithstanding Chapter 15, Civil Practice and Remedies Code, or any other law, an action against the pension system or the board shall be brought in a court of competent jurisdiction located in the city or county in which the pension system is located.

(q) The board may purchase from one or more insurers one or more insurance policies that provide for the reimbursement of a trustee or employee of the pension system for liability imposed as damages caused by, and for costs and expenses incurred by the individual in defense of, an alleged act, error, or omission committed by the individual in the individual's capacity as a fiduciary or employee of the pension system. The board may not purchase an insurance policy that provides for the reimbursement of a trustee or employee of the pension system due to the trustee's or employee's dishonesty, fraudulent breach of trust, lack of good faith, intentional fraud or deception, or intentional failure to act prudently.

(r) The board shall adopt a code or codes of ethics consistent with Section 825.212, Government Code. In adopting or amending a code or codes of ethics, the board may consider comments on the policy from the city attorney of the city. The board shall:

(1) review the code or codes of ethics on an annual basis and amend the code or codes as the board considers necessary;

(2) file a copy of the code or codes of ethics adopted or

amended in accordance with this subsection with the State Pension Review Board; and

(3) provide a copy of the code or codes of ethics adopted or amended in accordance with this subsection to the city attorney.

(s) The board shall develop an Internet website designed to give active members and pensioners access to the information concerning the pension system and the individual's participation in the pension system required by Section 802.106, Government Code, as well as information concerning the financial health of the pension system.

Sec. 3.011. NOMINATIONS COMMITTEE. (a) Subject to Subsection (b) of this section, the nominations committee consists of:

(1) the executive director, who is a nonvoting member; and

(2) the president, chair, or other executive head of the following organizations or their successor organizations, or that person's designee:

(A) the Dallas Black Firefighters Association;

(B) the Black Police Association of Greater Dallas;

(C) the National Latino Law Enforcement Organization;

(D) the Dallas Fraternal Order Police Lodge 588;

(E) the Dallas Police Association;

(F) the Dallas Fire Fighters Association, International Association of Fire Fighters Local No. 58;

(G) the Dallas Hispanic Firefighters Association, Inc.;

(H) the Dallas Police Retired Officers Association;

(I) the Dallas Retired Firefighters Association;

(J) the Retired Black Firefighters Association of Dallas; and

(K) the Dallas Hispanic Retired Fire Fighters Association.

(b) If an organization described by Subsection (a)(2) of this section elects not to participate on the nominations committee, is prohibited from participating on the nominations committee under Subsection (g) of this section, or ceases to exist, the nominations committee members appointed under that subsection consist only of representatives of the remaining organizations, if any.

(c) The executive director shall serve as presiding officer of the nominations committee.

(d) The nominations committee shall meet at the call of the presiding officer.

(e) The nominations committee shall nominate trustees to the board in accordance with Sections 3.01(b)(2) and (b-3) of this article.

(f) A person serving on the nominations committee under Subsection (a)(2) of this section serves without compensation and may not be reimbursed for travel or other expenses incurred while conducting the business of the nominations committee. The executive director may not receive additional compensation for service on the nominations committee.

(g) An organization described by Subsection (a)(2) of this section may not participate on the nominations committee unless the organization is in good standing with the secretary of state, if applicable.

(h) Chapter 2110, Government Code, does not apply to the nominations committee.

(i) The nominations committee may establish policies and procedures governing its operations.

Sec. 3.012. REMOVAL OF TRUSTEES. (a) In accordance with procedures adopted by board rule, a trustee:

(1) appointed under Section 3.01(b)(1) of this article may be removed by the mayor for cause; and

(2) elected under Section 3.01(b)(2), (3), or (4) of this article may be removed by the nominations committee for cause.

(b) It is a cause for removal of a trustee from the board that the trustee:

(1) does not have at the time of taking office the qualifications required by Section 3.01(b) or (b-1)(1) of this article, subject to Subsection (b-3) of that section;

(2) does not maintain during service on the board the qualifications required by Section 3.01(b) or (b-1)(1) of this article, subject to Subsection (b-3) of that section;

(3) is ineligible for membership under Section 3.01(b-1)(2) or (b-2) of this article; or

(4) is absent from more than 40 percent of the meetings that the trustee is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(c) The validity of an action of the board is not affected by the fact that it is taken when a cause for removal of a trustee exists.

(d) If the executive director has knowledge that a potential

cause for removal exists, the executive director shall notify the chairman of the board of the potential cause. The chairman shall then notify the mayor or nominations committee, as appropriate, that a potential cause for removal exists. If the potential cause for removal involves the chairman, the executive director shall notify the vice chairman or next highest ranking officer of the board, who shall then notify the mayor or nominations committee, as appropriate, that a potential cause for removal exists.

Sec. 3.013. TRUSTEE TRAINING. (a) A person who is appointed or elected to the board and qualifies for office as a trustee shall complete a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing the pension system's operations;

(2) the programs, functions, rules, and budget of the pension system;

(3) the scope of and limitations on the rulemaking authority of the board;

(4) the results of the most recent formal audit of the pension system;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to a trustee in performing the trustee's duties, including the board's fiduciary duties described under Section 3.01(a) of this article;

(6) the code or codes of ethics adopted under Section 3.01(r) of this article and any applicable ethics policies adopted by the Texas Ethics Commission; and

(7) financial training regarding the risks of investing in alternative investments.

(c) The executive director shall create a training manual that includes the information required by Subsection (b) of this section. The executive director shall distribute a copy of the training manual annually to each trustee. On receipt of the training manual, each trustee shall sign and submit to the executive director a statement acknowledging receipt of the training manual.

Sec. 3.02. PROFESSIONAL CONSULTANTS. In addition to the authority of the board to employ the services of certain consultants set forth in this article, the board has the authority to employ the

services of any professional consultant recommended by the executive director, including investment advisors and investment managers, whenever the services of the consultants are considered necessary or desirable and in the best interests of the pension system, as determined by the board in consultation with the executive director. A professional consultant shall receive such compensation as may be determined by the board in accordance with Section 4.01 of this article.

Sec. 3.025. CHIEF INVESTMENT OFFICER. The executive director may hire a chief investment officer, subject to confirmation by the board, to assist the pension system regarding the investment of assets of the fund. Compensation for a chief investment officer hired under this section shall be made in accordance with Section 4.01 of this article.

Sec. 3.03. LEGAL ADVISOR. (a) The city attorney of the city may ex officio be the legal advisor to the board.

(b) Subject to Subsection (b-1) of this section, the city attorney or an assistant city attorney may attend board meetings and may advise the board on any matter on which the pension system requests a legal opinion from the city attorney.

(b-1) The city attorney or an assistant city attorney is not required to provide an opinion under Subsection (b) of this section unless the opinion is requested by the city council on behalf of the pension system. The city attorney or assistant city attorney may decline to provide the opinion if the subject matter of the request is too dependent on disputed facts to permit a generalized opinion, as determined by the city attorney or assistant city attorney.

(c) The board may retain other attorneys to serve as legal advisors to the board. The executive director may hire a chief legal officer, subject to confirmation by the board, or other attorneys if necessary to carry out the business of the pension system. Compensation for a chief legal officer or other attorneys hired under this subsection shall be made in accordance with Section 4.01 of this article.

Sec. 3.04. APPOINTMENT OF EXECUTIVE DIRECTOR. (a) The board has the authority to appoint an executive director to assist the board with administering the pension system and ensure that records are kept of the proceedings of the board. Subject to Subsection (a-1) of this section, a person appointed executive director under this section:

(1) must have, to the extent possible, relevant experience in managing a similarly situated business entity; and

(2) may not be a current or former trustee.

(a-1) During any period in which the most recent actuarial valuation of the pension system indicates that the period needed to amortize the unfunded actuarial accrued liability of the pension system exceeds 35 years, the board shall, to the extent lapsed investments are a significant portion of the pension system's assets, ensure that the executive director appointed under Subsection (a) of this section has, or hires staff that has, appropriate experience in managing a business entity with lapsed investments in a manner that resulted in the improved liquidity or profitability of the business entity.

(b) Subject to Subsections (b-1) and (b-3) of this section, the executive director may select any number of persons the executive director determines appropriate to assist the executive director in carrying out the executive director's duties under this section. Subject to Section 4.01 of this article, the titles and salaries of persons selected to assist the executive director shall be determined by the executive director.

(b-1) The executive director may not select a person to assist the executive director who is an active, former, or retired police officer or fire fighter of the city.

(b-2) The executive director shall establish the organizational structure of pension system employees to optimize administration of the pension system.

(b-3) A former or retired employee of the city may not before the second anniversary of the first day of the month following the date the person terminated employment with the city serve the pension system in any capacity other than as a trustee. Except as specifically provided by this article, including Section 3.01(b)(3) or (4) of this article, or other law, an employee of the city may not serve the pension system in any capacity.

(c) The executive director and those persons selected to assist the executive director may be considered employees of the city. Unless otherwise delegated to the executive director, the board shall have the ultimate authority to retain, discipline, or terminate the engagement of the executive director.

(d) If acting in the executive director's own discretion, the executive director owes a fiduciary duty to the pension system and

shall ensure the sustainability of the pension system for the purpose of providing current and future benefits to members of the pension system and their beneficiaries. If the executive director is acting at the direction of the board and not exercising the executive director's own discretion, the executive director does not owe a fiduciary duty under this subsection.

PART 4. FINANCES

Sec. 4.01. PAYMENT OF ADMINISTRATIVE AND PROFESSIONAL SERVICES FEES. (a) The board shall pay for all costs of administration out of the income from the fund when in the judgment of the board the costs are necessary, including the cost of:

(1) salaries and benefits for the executive director and administrative staff;

(2) office expenses;

(3) expenses associated with securing adequate office space and associated utilities;

(4) compensation for professional consultants, professional investment managers, or other persons providing professional services; and

(5) any other expenses approved by the board.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.52(2), eff. September 1, 2017.

(c) No expenditure for the costs of administration, including the payment of any fee for professional consultants, professional investment management services, or any other person providing professional services, may be made from the fund without the approval of the board.

(d) After the board has developed an annual budget for the pension system, the budget shall be presented to the city manager for comment. The city manager may request the board to reconsider the appropriation for any expenditure at a board meeting, but the board shall make the final determination concerning any appropriation.

Sec. 4.02. USE OF PUBLIC FUNDS. (a) The financial share of the cost of the pension system to be paid out of the public treasury shall be as provided by this section.

(b) Funds contributed by the city as its share of the amount required to finance the payment of benefits under the pension system may be used for no other purpose. The city is not responsible for the payment of any administrative or professional service fees of the pension system. Any change to the contributions required to be made

to the pension system by the city may only be made:

(1) by the legislature;

(2) by a majority vote of the voters of the city; or

(3) in accordance with a written agreement entered into between the pension system, by at least a two-thirds vote of all trustees of the board, and the city, provided that a change made in accordance with this subdivision may not increase the period required to amortize the unfunded actuarial accrued liability of the fund.

(c) Funds shall be appropriated by the city to carry out various other provisions contained in this article that authorize expenditures in connection with the administration of the pension system.

(d) Subject to Section 4.025 of this article, the city shall make contributions to the pension system biweekly in an amount equal to the sum of:

(1) the greater of:

(A) 34.5 percent of the aggregate computation pay paid to members during the period for which the contribution is made; or

(B) the applicable amount set forth below:

(i) $5,173,000 for the biweekly pay periods beginning with the first biweekly pay period that begins after September 1, 2017, and ends on the last day of the first biweekly pay period that ends after December 31, 2017;

(ii) $5,344,000 for the 26 biweekly pay periods immediately following the last biweekly pay period described by Subparagraph (i) of this paragraph;

(iii) $5,571,000 for the 26 biweekly pay periods immediately following the last biweekly pay period described by Subparagraph (ii) of this paragraph;

(iv) $5,724,000 for the 26 biweekly pay periods immediately following the last biweekly pay period described by Subparagraph (iii) of this paragraph;

(v) $5,882,000 for the 26 biweekly pay periods immediately following the last biweekly pay period described by Subparagraph (iv) of this paragraph;

(vi) $6,043,000 for the 26 biweekly pay periods immediately following the last biweekly pay period described by Subparagraph (v) of this paragraph;

(vii) $5,812,000 for the 26 biweekly pay periods immediately following the last biweekly pay period described by

Subparagraph (vi) of this paragraph;

(viii) $6,024,000 for the 26 biweekly pay periods immediately following the last biweekly pay period described by Subparagraph (vii) of this paragraph through the biweekly pay period that ends after December 31, 2024; and

(ix) $0 for each subsequent biweekly pay period beginning with the first biweekly pay period following the last biweekly pay period described by Subparagraph (viii) of this paragraph; and

(2) except as provided by Subsection (e) of this section, an amount equal to 1/26th of $13 million.

(e) The city is required to pay the contribution amount described by Subsection (d)(2) of this section only through the last biweekly pay period that ends after December 31, 2024.

(f) Repealed by Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.52(3), eff. September 1, 2017.

Sec. 4.025. CITY OR MEMBER CONTRIBUTIONS IF NO UNFUNDED ACTUARIAL LIABILITIES. Notwithstanding Section 4.02 or 4.03 of this article, if the pension system has no unfunded actuarial liability according to the most recent actuarial valuation, the annual normal costs must be equally divided between the city and the members unless equally dividing the costs would increase the member contribution rates beyond the rates prescribed by Section 4.03 of this article. The board shall adjust the city contribution rates under Section 4.02 of this article and the member contribution rates under Section 4.03 of this article accordingly, and certify the adjusted rates. After the completion of a subsequent actuarial valuation showing unfunded actuarial liabilities, the contribution rates applicable under Sections 4.02 and 4.03 of this article apply.

Sec. 4.03. MEMBER CONTRIBUTIONS. (a) Subject to Subsection (a-1) of this section and except as provided by Section 4.025 of this article, each Group A member of the combined pension plan shall have 13.5 percent of base pay deducted from the member's wages on a biweekly basis, and the contributions shall be promptly remitted to the fund by the city.

(a-1) If a Group A member is assigned, for any period, to a job-sharing program or any similar work schedule that is considered by the member's department to be less than a full-time work schedule, the member's contributions are determined by multiplying the applicable contribution rate by a fraction, the numerator of which is

the number of hours the member actually worked during the period and the denominator of which is the number of hours the member would have worked during the period if the member had been working a full-time work schedule.

(b) Each member shall contribute to the fund under the applicable terms of this article until the member leaves active service with either department. If a member leaves active service with a department, the member shall cease making contributions.

(c) Each Group B member shall authorize the city to deduct from the member's salary a percentage of the member's computation pay. The authorization shall be in writing and filed with the executive director.

(d) Subject to Subsection (d-1) of this section and except as provided by Section 4.025 of this article, for pay periods starting on or after September 1, 2017, each Group B member shall have 13.5 percent of the member's computation pay deducted from the member's wages on a biweekly basis and the contributions shall be promptly remitted to the fund by the city.

(d-1) If a Group B member is assigned, for any period, to a job-sharing program or any similar work schedule that is considered by the member's department to be less than a full-time work schedule, the member's contributions are determined by multiplying the applicable contribution rate by a fraction, the numerator of which is the number of hours the member actually worked during the period and the denominator of which is the number of hours the member would have worked during the period if the member had been working a full-time work schedule.

(d-2) For purposes of Subsection (d) of this section, "computation pay" includes computation pay paid to a Group B member during any period the member is receiving workers' compensation.

(e) The city shall determine the frequency of deductions for member contributions, as long as there is at least one deduction each month.

(f) Each Group B member shall contribute to the fund beginning on the effective date of the member's Group B membership.

(g) The percentage of base pay contributed by Group A members or computation pay contributed by Group B members may not be altered except by an adjustment under Section 4.025 of this article.

(h) The only purposes for which member contributions to the fund and the investment income derived from member contributions may

be applied are:

(1) to the payment of benefits prescribed by this article;

(2) to the payment of such administrative and professional service costs of the pension system as are provided for under Section 4.01 of this article or as may be within the discretion of the board to incur; and

(3) to invest any surplus in accordance with Section 4.07 of this article.

(i) Member contributions under this article or any payments a member is entitled to make under this article to receive additional pension service may be picked up by the city under the terms of an appropriate resolution of the city council.

Sec. 4.04. REFUND OF GROUP B MEMBER CONTRIBUTIONS. (a) Except as provided by Subsection (d) or (e) of this section, a Group B member who, either voluntarily or involuntarily, leaves active service is entitled to a refund from the fund of the total amount of the member's Plan B and Group B contributions, without interest, that were paid beginning with the effective date of the member's Group B membership or membership in Plan B. A refund under this subsection results in a total cancellation of pension service credit and the member and any person who would otherwise take by, through, or under the member is not entitled to any benefits from the pension system.

(b) Old plan or Plan A contributions paid to the fund by a Group B member may not be refunded from the fund.

(c) A Group B member who desires a refund of the Plan B or Group B contributions under Subsection (a) of this section must make written application for the refund with the executive director. In no case may any refund be made to a Group B member before the expiration of 30 days after the date the person leaves active service.

(d) Subject to Subsection (k) of this section, if a Group B member with less than five years of pension service either voluntarily or involuntarily leaves active service and fails to make written application for a refund of contributions within three years after the date of the notice described by Subsection (j) of this section made by the board, the person forfeits the right to withdraw any portion of the contribution, and the total amount of Plan B and Group B contributions the person made will remain in the fund. If the Group B member described by this subsection dies after leaving active service, the deceased member's designee may apply for the

refund of the person's contributions, resulting in an appropriate loss of pension service if the application is filed with the executive director within three years after the date of the notice described by Subsection (j) of this section made by the board. Subject to Subsection (k) of this section, if a Group B member's designee fails to apply for a refund of the Group B member's contributions within the three-year period described by this subsection, the designee forfeits any right to the contributions, and the total amount of the Plan B and Group B contributions made by the Group B member will remain in the fund.

(e) Subject to Subsection (k) of this section, if a Group B member with five or more years of pension service either voluntarily or involuntarily leaves active service and fails to make written application for a refund of the person's Plan B and Group B contributions within three years after the date of the notice described by Subsection (j) of this section made by the board, the person forfeits the right to withdraw any portion of the contributions, and the total amount of the contributions will remain in the fund. A Group B member described by this subsection may, however, apply for a Group B retirement pension under Section 6.02 of this article or, if the Group B member dies before the member is eligible to apply for a Group B retirement pension, the member's qualified survivors may apply for Group B death benefits under Sections 6.06, 6.061, 6.062, and 6.063 of this article. If the Group B member dies before the member is eligible to apply for a Group B retirement pension and the member has no qualified survivors, the Group B member's designee may apply for a refund of the Group B member's Plan B and Group B contributions, resulting in a total cancellation of pension service. Subject to Subsection (k) of this section, if a Group B member's designee fails to apply for a refund of the Group B and Plan B member's contributions within the three-year period described by this subsection, the designee forfeits any right to the contributions, and the total amount of the Plan B and Group B contributions made by the Group B member will remain in the fund.

(f) Subject to Subsections (g) and (h) of this section, a Group B member, other than a Group B member who elects or has elected to receive a Group A benefit or a benefit determined under the old plan or Plan A, who either voluntarily or involuntarily leaves active service with five or more years of pension service is entitled to:

(1) subject to Subsection (f-1) of this section, have the total amount of the person's Plan B and Group B contributions to the fund refunded in accordance with Subsection (a) of this section, which results in a loss of all of the person's accrued pension service; or

(2) if the Group B member first entered active service before January 1, 1999, elect to take a refund of less than the total amount of the person's Plan B and Group B contributions while leaving a sufficient amount to retain pension service amounting to five or more years.

(f-1) A Group B member who elects to receive a refund under Subsection (f)(1) of this section and any person who would otherwise take by, through, or under the member is not entitled to any benefits from the pension system.

(g) If a Group B member elects a refund of a portion of the person's contributions under Subsection (f)(2) of this section, the amount of the refund shall equal the total amount of the person's Plan B and Group B annual contributions, without interest, for each full year of pension service canceled, computed based on the earliest contributions made.

(h) A Group B member who first entered active service on or after January 1, 1999, is entitled to have the total amount of the person's Group B contributions refunded under Subsection (a) of this section in accordance with Subsection (f)(1) of this section, but may not receive a refund of less than the total amount in accordance with Subsection (f)(2) of this section.

(h-1) A Group B member who leaves active service and later returns to active service is permitted to repay to the fund any previously withdrawn employee contributions and receive pension service in accordance with Section 5.07(d) of this article as a Group B member to the extent that before again leaving active service, the Group B member repays to the fund the previously withdrawn contributions with interest, calculated at the interest rate from time to time used in the pension system's actuarial rate of return assumptions, compounded annually, on the previously withdrawn contributions.

(i) If a person becomes a Group B member under Section 5.01(b) of this article and again, either voluntarily or involuntarily, leaves active service and makes application for a refund of contributions under this section, the person is entitled to a refund

from the fund of the following:

(1) the amount of Group B contributions to the fund, without interest, that were paid from the date the person returned to active service following service or disability retirement; plus

(2) the excess, if any, of:

(A) the person's Plan B and Group B contributions to the fund, without interest, that were paid from the effective date of the person's original Group B or Plan B membership in Plan B until the time the person originally left active service because of the service or disability retirement; less

(B) the total amount of benefits the person received during service or disability retirement.

(j) On the 58th anniversary of the birth of a Group B member described by Subsection (d) or (e) of this section, or on the board's receipt of notice of the death of the Group B member, the board shall, by registered or certified mail, return receipt requested, attempt to notify the Group B member or designee, as applicable, of the status of the person's entitlement to a refund of contributions from the fund.

(k) A Group B member or designee described by Subsection (d) or (e) of this section shall have the person's right, title, interest, or claim to a refund of the Group B member's contributions reinstated only on the board's grant of their written request for a reinstatement and refund. The board's decision shall be based on a uniform and nondiscriminatory basis.

Sec. 4.05. INVESTMENT COUNSELOR; QUALIFICATIONS. (a) The board may employ from time to time an investment counselor to advise the board in the investment and reinvestment of the assets of the fund. Only the following are eligible for employment as an investment counselor:

(1) any organization whose regular business functions include rendering investment advisory services to pension and retirement funds and that is registered as an "investment adviser" under the Investment Advisers Act of 1940; and

(2) any bank, as defined in the Investment Advisers Act of 1940, that maintains a trust department and offers investment services to pension and retirement funds.

(b) The investment counselor shall receive such compensation as may be determined by the board and as authorized by Section 4.01 of this article.

Sec. 4.06. INVESTMENT CUSTODY ACCOUNT OR MASTER TRUST AGREEMENTS. (a) If the board contracts for investment management services as authorized by Section 4.07 of this article, it may, with respect to every such contract, also enter into an investment custody account agreement, designating one or more banks as custodian or master trustee for any assets of the fund.

(b) Under a custody account or master trust agreement, the board shall require the designated bank to perform the duties and assume the responsibilities of a custodian in relation to the investment contract to which the custody account or master trust agreement is established.

(c) The authority of the board to make a custody account or master trust agreement is supplementary to its authority to make an investment management contract. Allocation of assets to a custody account or master trust shall be coordinated by the executive director, as authorized by the board, and the bank designated as custodian or master trustee for the assets.

(d) Any custody account or master trust agreement made by the board shall establish such compensation for the custodian or master trustee as may be determined by the board and as authorized by Section 4.01 of this article.

Sec. 4.07. INVESTMENT OF SURPLUS. (a) Subject to Section 4.071 of this article, if the board determines that there is in the fund a surplus exceeding a reasonably safe amount to take care of current demands on the pension system, the board may invest or direct the investment of the surplus for the sole benefit of the pension system.

(b) In making investments and supervising investments, trustees shall exercise the judgment and care under the circumstances then prevailing that persons of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to probable income from the assets as well as the probable safety of their capital.

(c) The board has the ultimate responsibility for the investment of funds. The board may exercise this responsibility directly by purchasing or selling securities or other investments, or it may exercise discretion in determining the procedure that it deems most efficient and beneficial for the pension system in carrying out the responsibility. The board may contract for professional advisory services regarding the purchase or sale of securities or other

investments pursuant to Section 3.02 of this article. A professional advisory service shall receive such compensation as may be determined by the board in accordance with Section 4.01 of this article.

(d) The board also has the authority to contract for professional investment management services. Any contract that the board makes with an investment manager shall set forth the board's investment policies and guidelines. A professional investment management service shall receive such compensation as may be determined by the board in accordance with Section 4.01 of this article.

(e) The board, in exercising its control, may at any time, and shall at frequent intervals, monitor the investments made by any investment manager and shall enforce full compliance with the requirements of the board.

(f) If the board contracts for and receives professional advisory services or professional investment management services, the board has no greater liability under the terms of this section than otherwise provided for under the Government Code or the Texas Trust Code.

(g) A bank or trust company that has custody and trustee powers and a contract with the board to provide assistance in making investments shall be the custodian or master trustee of any of the securities or other assets of the fund. Pursuant to Section 4.06 of this article, the board may designate a bank to serve as custodian or master trustee, or subcustodian or submaster trustee, to perform the customary duty of safekeeping as well as duties incident to the execution of transactions. As the demands of the pension system require, the board shall withdraw from the custodian or master trustee money previously considered surplus in excess of current cash and proceeds from the sale of investments. The money may without distinction be used for the payment of benefits pursuant to each of the plans within the pension system and for other uses authorized by this article and approved by the board.

(h) The board through policy shall establish an investment advisory committee composed of trustees and outside investment professionals to review investment related matters as prescribed by the board and make recommendations to the board. A majority of the members of the committee established under this subsection must be outside investment professionals.

Sec. 4.071. BOARD APPROVAL OF CERTAIN ALTERNATIVE INVESTMENTS.

(a) The executive director, an investment manager, a provider of professional investment management services or professional advisory services, or any other person delegated authority to invest or reinvest pension system assets under this article may not invest pension system assets in a single alternative investment unless the board votes to approve the investment by at least a two-thirds vote of all the trustees.

(b) The board may adopt rules necessary to implement this section.

Sec. 4.08. ACTUARIAL VALUATION. (a) The board has the authority to employ a qualified actuary to provide a continuing observation of the operation of the pension system and to make recommendations and give advice to the board about the condition of the assets of the fund and the administration of the pension system. A qualified actuary shall receive such compensation as is determined by the board in accordance with Section 4.01 of this article.

(b) A qualified actuary shall perform continuing actuarial observation of the assets of the fund not less than once every two years and make a report of the condition of the assets of the fund to the board. The board may require more frequent reports.

(c) On written request by the city, the executive director shall make available to the city's actuary or auditor the information and documents provided to or used by the pension system's actuary or auditor in conducting an actuarial valuation under this article or preparing any other document prepared under this article.

Sec. 4.09. REWARDS, DONATIONS, AND CONTRIBUTIONS. Any reward, donation, or contribution given to any member as payment or gratuity for service performed in the line of duty shall be turned over to the chief of the member's department, who shall, in turn, forward the reward, donation, or contribution to the executive director of the pension system for deposit in the fund.

PART 5. MEMBERSHIP

Sec. 5.01. MEMBERSHIP IN COMBINED PENSION PLAN. (a) Except as provided by Subsection (a-1) of this section, the membership of the combined pension plan is composed of the following persons:

(1) Group A members:

(A) police officers or fire fighters who are on active service and who as of February 28, 1973, had filed a written statement with the pension system of their desire to participate in either the old plan or Plan A;

(B) police officers and fire fighters who are on active service and who were employed and receiving compensation from the city as a police officer or a fire fighter before March 1, 1973, and who made contributions to either the old plan or Plan A attributable to any period of employment before March 1, 1973; and

(C) except as provided by Subsection (b) of this section, persons who elect to become Group A members under that subsection; and

(2) Group B members:

(A) police officers and fire fighters who are on active service and who were formerly members of either the old plan or Plan A and who, as of April 30, 1973, had filed a written statement with the pension system of their desire to participate in Plan B;

(B) police officers and fire fighters who are on active service and who on or after March 1, 1973, and before January 1, 1993, became members of Plan B;

(C) as a condition of employment, any police officer or fire fighter who is initially employed as a police officer or a fire fighter by the city on or after January 1, 1993;

(D) as a condition of return to active service and except as provided by Subsection (b) of this section, former members of the old plan or Plan A who left active service before March 1, 1973;

(E) as a condition of return to active service and except as provided by Subsection (c) of this section, former Group B members who are no longer on active service, whether or not the persons were ever a member of the old plan, Plan A, or the combined pension plan;

(F) Group A members who are on active service and meet the requirements and make an election under Subsection (d) of this section; and

(G) persons who are on active service and make an election under Subsection (e) of this section.

(a-1) Group A or Group B members do not include any employee of the city who is:

(1) required by ordinance or who elects, in accordance with an ordinance, to participate in an alternative benefit plan established under Section 3.01(j-1)(2) of this article based on an evaluation under Section 3.01(j-5)(2) of this article; or

(2) required by ordinance to participate in an alternative

benefit plan established under Section 810.002, Government Code.

(b) A person who has received an old plan, Plan A, or combined pension plan retirement or disability pension on or after March 1, 1973, may, if the person returns to active service, elect to participate as a Group A or Group B member by filing a written application for membership with the executive director not later than 60 days after the date of return to active service. If the person described by this subsection does not elect to become a Group A or Group B member, the person shall on leaving active service receive a retirement pension in an amount that is unadjusted for the period of return to active service if the person meets all of the requirements of Group A membership.

(c) A Group B pensioner who was never a member of the old plan, Plan A, or the combined pension plan before January 1, 1993, may, if the person returns to active service, elect to become a Group B member by filing a written application for membership with the executive director not later than 60 days after the date of return to active service. If the person described by this subsection does not elect to again become a Group B member, on leaving active service, if the person meets all applicable requirements of this article, the person shall receive benefits in an amount equal to the amount the person was receiving as of the day before the day the person returned to active service, and the person's base pension shall be the same as the base pension originally computed before the return to active service.

(d) A person who is on active service and is a Group A member may, before the person participates in DROP, irrevocably elect to become a Group B member by filing a written application with the executive director. On and after the filing of the application, the Group A member shall make contributions to the fund at the rate applicable to Group B members. However, the contributions do not, by themselves, establish Group B membership. Group B membership is contingent on the satisfaction of the following conditions:

(1) the person must, before the person elects to participate in DROP, pay an amount to the fund equal to the difference between the contributions the person would have made to the fund had the person been a Group B member for the entire period the person could otherwise have been a Group B member before making application for membership and the contributions the person actually made during that period, plus interest calculated in accordance with

procedures adopted by the board from time to time; and

(2) the payments described by this subsection must be completed before the earlier of the date on which the person begins participation in DROP or leaves active service in accordance with procedures adopted by the board from time to time.

(d-1) If the fund does not receive payment under Subsection (d)(1) of this section by the date prescribed by Subsection (d)(2) of this section, all payments made under Subsection (d)(1) of this section, as well as those contribution amounts paid by the person after the person's application for Group B membership that are in excess of the Group A member contribution rate, shall be returned without accrued interest to the person, or in the event of the person's death to the person's designee, as applicable.

(e) A person who is on active service and has never been a member of any plan within the pension system may elect to become a Group B member on a prospective basis by filing a written application for membership with the executive director.

Sec. 5.02. EFFECTIVE DATE OF GROUP B MEMBERSHIP. (a) The effective date of Group B membership for a person who becomes a Group B member under Section 5.01(a)(2)(A) or (B) of this article is the date the Group B member first became a member of Plan B.

(b) The effective date of Group B membership for a person who becomes a Group B member pursuant to Section 5.01(a)(2)(C) of this article is the day the person begins active service.

(c) The effective date of Group B membership for a person who becomes a Group B member and is described by Section 5.01(a)(2)(D) of this article is the date of the person's return to active service.

(d) The effective date of Group B membership for a person who again becomes a Group B member and is described by Section 5.01(a)(2)(E) of this article is the person's original effective date of Group B membership, adjusted for any period for which the person was not on active service or has withdrawn some, but not all, contributions to the fund pursuant to Section 4.04 of this article. If, however, the person withdraws all contributions to the fund in accordance with Section 4.04 of this article, and the person does not replace the previously withdrawn contributions together with interest as provided by Section 4.04(h-1) of this article, the effective date of the person's membership is the date of return to active service.

(e) The effective date of membership for a person who becomes a Group B member pursuant to Section 5.01(b) of this article is the

date on which written application for the membership is filed with the executive director. The effective date of membership for a person who becomes a Group A member pursuant to Section 5.01(b) of this article is the person's original effective date of membership in the old plan, Plan A, or the combined pension plan, whichever is applicable.

(f) The effective date of Group B membership for a Group B pensioner who again becomes a Group B member pursuant to Section 5.01(c) of this article is the pensioner's original effective date of membership, adjusted for any period the person was not on active service.

(g) The effective date of Group B membership for a person who joins this plan pursuant to Section 5.01(d) of this article is March 1, 1973.

(h) A person described by Subsection (a), (c), (d), (e), (f), or (g) of this section shall be given full pension service for the time the person was a contributing member of the old plan, Plan A, the combined pension plan, and Plan B, and the pension service shall be counted as if it had been earned while a Group B member. Neither the length of time persons described by Subsection (a), (c), (d), (e), (f), or (g) of this section received a retirement or disability pension, whether under the old plan, Plan A, the combined pension plan or Plan B, nor the amount of any benefits paid to the person shall have any effect on the pension service earned by the person. No pension service may be earned while on service retirement or disability retirement, or when the person was not on active service. Except as provided by Sections 5.08 and 5.09 of this article, a person described by Subsection (a), (c), (d), (e), (f), or (g) of this section may not be allowed to contribute to the fund in order to receive pension service for the time the person was not on active service, regardless of whether the person was actually receiving a pension.

(i) The effective date of Group B membership for a person who becomes a Group B member pursuant to Section 5.01(e) of this article is the date on which written application for Group B membership is filed with the executive director.

Sec. 5.03. TERMINATION OF GROUP B MEMBERSHIP. (a) Group B membership, whether by voluntary application or as a condition of employment, may be terminated by the Group B member only when the person ceases to be on active service.

(b) Once a police officer or fire fighter becomes a Group B member, whether by voluntary application or as a condition of employment, the person may never transfer the membership to become a Group A member and may never transfer the membership to any pension plan for police officers and fire fighters that may be created in the future unless the terms of that plan allow the transfer.

(c) A Group B member who is on active service and was a former contributing member of either the old plan or Plan A may elect, when applying for either a retirement or disability pension if applicable, to terminate membership and receive a Group A retirement or disability pension under the applicable provisions of this article, if the Group B member's application for retirement or disability pension is granted by the board.

(c-1) A Group B member who is not on active service and was a former contributing member of either the old plan or Plan A may elect, when applying for a retirement pension, to terminate membership and receive a Group A retirement pension under the applicable provisions of this article, if the Group B member's application for retirement pension is granted by the board.

(d) If a Group B member described by Subsection (c) or (c-1) of this section has elected and been granted a Group A retirement or disability pension under the applicable provisions of this article, the person is entitled to a reimbursement from the fund. The reimbursement shall be equal to that portion of the person's contributions to the fund, without interest, from the person's effective date of Group B membership until the time the person left active service that is in excess of the total amount the person would have contributed as a Group A member or as a member of the old plan or Plan A for the same period. A Group B member desiring a refund of excess contributions must make written application for the refund with the executive director within three years after the date the person's Group A retirement or disability pension, whichever is applicable, begins, otherwise, the person will lose all right, title, interest, or claim to the refund until such time as the board grants the refund in response to the person's written request. The refund shall be made as soon as practicable after written application is filed with the executive director.

Sec. 5.04. GROUP B MEMBERSHIP MAY BE DECLARED INACTIVE. (a) Except as provided by Subsection (d)(1) of this section, if a Group B member with less than five years of pension service either

voluntarily or involuntarily leaves active service, the person's Group B membership remains active as long as the person has not withdrawn the person's contributions pursuant to Section 4.04 of this article.

(b) Except as provided by Subsection (d)(2) of this section, if a Group B member with five or more years of pension service either voluntarily or involuntarily leaves active service, the person's Group B membership remains active as long as the person has not withdrawn the person's entire contributions pursuant to Section 4.04 of this article.

(c) Except as provided by Subsection (d)(3) of this section, if the board receives valid information that a Group B primary party has died, the board shall, by registered or certified mail, return receipt requested, attempt to notify:

(1) the qualified survivors of the primary party of the procedures for applying and qualifying for death benefits under Section 6.06, 6.061, 6.062, or 6.063 of this article; or

(2) if the primary party does not have any qualified survivors, the primary party's designee of the procedures for applying for a refund of the primary party's contributions, if applicable, in accordance with Section 4.04 of this article.

(d)(1) Subject to the provisions of Subdivision (5)(A) of this subsection, the membership of a Group B member described by Subsection (a) of this section shall be declared inactive and all of the person's accrued pension service voided if the person does not return to active service within three years after the date of the notice described by Subdivision (4) of this subsection.

(2) Subject to the provisions of Subdivision (5)(B) of this subsection, the membership of a Group B member described by Subsection (b) of this section shall be declared inactive and all of the person's accrued pension service voided if the person does not file an application for a Group B retirement pension with the board within three years after the date of the notice described by Subdivision (4) of this subsection.

(3) Subject to the provisions of Subdivision (5)(C) of this subsection, if a primary party described by Subsection (c) of this section:

(A) does not have any qualified survivors, the designee has no right, title, interest, or claim for a refund of the primary party's contributions to the fund if the designee does not file an

application for the primary party's contributions within three years after the date of the notice described in Subsection (c) of this section; or

(B) has qualified survivors, the qualified survivors have no right, title, interest, or claim to the primary party's death benefits if the qualified survivor does not file an application for the benefits within three years after the date of the notice described in Subsection (c) of this section.

(4) On the 58th anniversary of the birth of a Group B member described by Subsection (a) or (b) of this section, the board shall, by registered or certified mail, return receipt requested, attempt to notify:

(A) the member of the status of the member's entitlement to benefits or contributions from the fund; or

(B) if the board receives valid information that the member has died, the qualified survivors of the deceased person or, if none exists, the designee of the deceased person.

(5)(A) A Group B member described by Subdivision (1) of this subsection shall have the person's Group B membership and pension service reinstated on the person's return to active service.

(B) A Group B member described by Subdivision (2) of this subsection shall have the person's Group B membership and pension service reinstated on the person's return to active service or on the grant of the person's written request to the board of the person's desire to apply for a Group B retirement pension under Section 6.02 of this article.

(C) A primary party's qualified survivors or designee, as appropriate, described by Subdivision (3) of this subsection shall have their right, title, interest, or claim to the primary party's refund of the party's contributions reinstated on the board's grant of their written request.

Sec. 5.05. PENSION SERVICE. (a) Subject to Subsection (d) of this section and except as provided by Subsection (e) of this section, a member shall receive pension service for the time, computed in years and fractional years for months and days, completed as a member of the combined pension plan, the old plan, Plan A, or Plan B.

(b) A member who elects to pay contributions for time spent on military leave, authorized non-uniformed leave of absence, or for an apprenticeship or probationary period, or for any other reason

provided for by this article may receive pension service for the time for which the member is contributing only to the extent provided under Section 5.07(d), 5.08, or 5.09 of this article.

(c) If a member, either voluntarily or involuntarily, leaves active service and later returns to active service, the person shall receive full pension service for the period of the person's original membership, if the person did not withdraw the person's contributions pursuant to Section 4.04 of this article. If, however, the member had withdrawn the person's contributions and did not replace the previously withdrawn contributions as required by Section 4.04 of this article, the member forfeits any pension service attributable to any period of time for which the respective contributions were not repaid.

(d) If a member is assigned, for any period, to a job-sharing program or any similar work schedule that is considered by the member's department to be less than a full-time work schedule, the member's pension service is determined by multiplying the pension service that could have been earned for full-time work during the period by a fraction, the numerator of which is the number of hours the member actually worked during the period and the denominator of which is the number of hours the member would have worked during the period if the member had been working a full-time work schedule. This proration may not affect the computation of pension service for a member during any period the member is on leave:

(1) because of an illness or injury; or

(2) receiving periodic payments of workers' compensation.

(e) Notwithstanding any other provision in this section, a member may not receive pension service attributable to nonqualified service to the extent the pension service would result in either more than five years of permissive service attributable to nonqualified service being taken into account, or any permissive service being taken into account before the member has completed at least five years of active service. In this subsection, "permissive service" and "nonqualified service" have the meanings described by Section 415(n)(3) of the code.

Sec. 5.06. VESTED RIGHTS OF GROUP B MEMBERS. (a) If a Group B member accrues five years of pension service, whether the pension service is accrued while a Group B member or while a member of the old plan, Plan B, Plan A, the combined pension plan, or a combination of the plans, the Group B member has vested rights and is eligible to

apply for a retirement pension in accordance with Section 6.02 of this article.

(b) If a Group B member has vested rights as determined under Subsection (a) of this section, and the Group B member either voluntarily or involuntarily leaves active service before becoming eligible to receive any benefits under Section 6.02 of this article, the person shall be provided with a letter approved by the board and signed by the executive director that, barring unrepaid refunds, clerical error, miscalculation, or other error, is incontestable and shall state:

(1) the total amount of pension service the Group B member had accrued until the date the person left active service;

(2) the total amount of contributions the Group B member made under the terms of Plan B and the combined pension plan; and

(3) the monthly retirement pension due the Group B member at age 58.

Sec. 5.07. PURCHASE OF PENSION SERVICE BY GROUP B MEMBERS. (a) A Group B member who is on active service and has previously elected not to become a contributing member of the old plan or Plan A may purchase pension service from the fund for that period during which the member performed active service with either department until the effective date of the member's Group B membership. No pension service may be given to the Group B member except to the extent that payment is made for the pension service in accordance with Subsection (d) of this section.

(b) Payment for the purchase of pension service under Subsection (a) of this section shall be equal to the amount of contributions the Group B member would have made to the old plan and Plan A had the member been a contributing member of either of the plans during the period for which the pension service is being purchased, plus interest calculated in accordance with procedures adopted by the board from time to time.

(c) Subject to Subsection (d) of this section, a Group B member who is on active service may repay the fund all or a portion of the employee contributions withdrawn by an alternate payee pursuant to the terms of a qualified domestic relations order with interest, calculated at the interest rate from time to time used in the pension system's actuarial rate of return assumptions, compounded annually, on the contributions for the period from the date the contributions were withdrawn until the date the principal and accrued interest are

repaid, and receive pension service as a Group B member, in accordance with Subsection (d) of this section, for the period for which the contributions and interest were paid.

(d) If payment of the entire amount of pension service a member is entitled to under Subsection (a) or (c) of this section or under Section 4.04(h-1) of this article is not completed by the earlier of the date the Group B member begins participation in DROP or the date the member leaves active service, pension service will be provided only for the number of full years of pension service that the contributions and interest paid under those provisions will purchase, computed based on the most recent years for which the member was entitled to purchase pension service. Except for pension service that is picked up by the city under the authority of Section 414(h)(2) of the code, a fractional year of pension service may be purchased only if less than a full year of pension service is available for purchase.

(e) The amounts paid but insufficient to purchase one or more whole years of pension service that remain available for purchase, including any interest paid by the Group B member, must be returned to the Group B member or, if the Group B member has died, to the Group B member's designee, without any accrued interest on the returned money.

(f) Notwithstanding any other provision of this section, any amounts that have been picked up and paid by the city may not be paid to a member or designee, and the member shall be given credit for all years, and fractions of years, of pension service that can be purchased with the picked-up contributions.

Sec. 5.08. MEMBERS IN UNIFORMED SERVICES. (a) In this section, "service in the uniformed services" has the meaning assigned by the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), as amended.

(a-1) A member who is reemployed by the city after an absence due to service in the uniformed services shall receive contributions, benefits, and pension service that are no less favorable than those required by Section 414(u) of the code in accordance with the procedure described by Subsection (c) of this section.

(b) To the extent a provision of this section that was in effect before November 25, 1996, would provide a member who was on active service with the pension system before November 25, 1996, with greater rights, the prior provision of this section applies.

(c) Payment for credit for pension service under this section shall be made in accordance with Section 5.07 of this article and a uniform and nondiscriminatory procedure adopted by the board.

Sec. 5.09. NON-UNIFORMED LEAVE OF ABSENCE. (a) An "authorized non-uniformed leave of absence" means any leave of absence that meets one of the following requirements:

(1) the leave of absence was unpaid and granted by the member's department in accordance with the federal Family and Medical Leave Act of 1993 (29 U.S.C. Section 2601 et seq.); or

(2) the leave of absence was unpaid and was an official leave authorized and certified by the chief of the member's department as being beneficial to the department.

(b) Subject to the requirements of this section and any procedures adopted by the board, a member may receive pension service for time spent away from the member's department on an authorized non-uniformed leave of absence. To receive pension service under this section, the member must file with the executive director a written application to pay to the fund both:

(1) the member contributions the member would have made to the fund had the member remained on active service and had there been no change in the member's position or hours of work during the period of the authorized non-uniformed leave of absence; and

(2) the contributions the city would have made to the fund on the member's behalf had the member remained on active service and had there been no change in the member's position or hours of work during the period of the authorized non-uniformed leave of absence.

(b-1) Contributions made under Subsection (b)(2) of this section may not be refunded to the member.

(b-2) The written application described by Subsection (b) of this section must be filed before the member's authorized non-uniformed leave of absence begins, unless the pension system determines that it would not be reasonable to expect the member to file the application before the authorized non-uniformed leave of absence begins, in which case the application must be filed as soon as circumstances permit, as determined by the pension system.

(b-3) To receive pension service under this section, the following additional conditions must also be met:

(1) if the member's contribution rate, the city's contribution rate, or both the member's and city's contribution rates change before the end of the member's authorized non-uniformed leave

of absence, the percentage required to be paid by the member also changes, so that the amount paid by the member in accordance with this section always equals the amount that would have been contributed by the member, and by the city on the member's behalf had the member remained on active service;

(2) payment of contributions as set forth in Subsection (b) of this section shall begin coincident with the beginning of the applicable authorized non-uniformed leave of absence and shall be made monthly to the executive director for deposit in the fund, unless the board authorizes the deferment of the payments, in which case the payments must include interest calculated in accordance with Subsection (b-4) of this section;

(3) no pension service will be granted to the member until the member returns to active service, and if the member does not return to active service, the contributions paid, including any interest paid, will be returned to the member except as provided by Subsection (c) of this section;

(4) if the board authorizes the deferment of the payments under Subdivision (2) of this subsection, the payment must be made either by authorizing the deduction of pro rata portions of the total amount due from the member's salary over a one-year period, or by cash payment made to the executive director within one year after the date of the member's return to active service, except that the board may approve a longer period for making the payment if it finds that the one-year limit would work a financial hardship on the member;

(5) the member must return to active service within 90 days after the date the member's authorized non-uniformed leave of absence expires, or if the member's authorized non-uniformed leave of absence does not have a fixed expiration date, within a reasonable time to be determined by the board, or the member forfeits the right to pay for the leave time; and

(6) no member may ever be allowed to pay leave of absence contributions under this section for any time in excess of the time actually spent on an authorized non-uniformed leave of absence.

(b-4) For purposes of Subsection (b-3)(2) of this section, interest is calculated from the date the member's payment was first due, at the interest rate from time to time used in the pension system's actuarial rate of return assumptions, compounded annually until the date the principal and accrued interest are repaid in full.

(c)(1) If a member of the combined pension plan is disabled or

dies while on an authorized non-uniformed leave of absence, the member or the member's designee is entitled to a refund of contributions pursuant to Section 4.04 of this article or the member or the member's qualified survivors are entitled to benefits under the provisions of this article, to the extent applicable.

(2) A member who is disabled or dies while on an authorized non-uniformed leave of absence pursuant to this section may receive no pension service for any portion of the period of the leave, except that if the member had, before the member's disability or death, paid for contributions while on an authorized non-uniformed leave of absence in accordance with this section, the member shall receive pension service for the leave time actually paid for at the time of the member's disability or death. The member may receive no pension service for any portion of the period of leave for which contributions were not paid to the executive director for deposit in the fund.

PART 6. BENEFITS

Sec. 6.01. GROUP A RETIREMENT PENSION. (a) A Group A member must have 20 years of pension service to be eligible for a Group A retirement pension under this section. A member's benefit election under this section, once approved, is irrevocable.

(a-1) If a Group A pensioner returns to active service as a police officer or fire fighter with the city, the person's Group A retirement pension ceases until that person again leaves active service with the city.

(a-2) If a Group A pensioner resumes employment with the city in a capacity other than as a police officer or fire fighter, the pensioner's Group A retirement pension continues during the period of employment, except the pensioner may not accrue additional credit for pension service during this period. Additional credit for pension service does not accrue during any period in which a Group A pensioner becomes employed by the city unless the additional credit is attributable to active service as a police officer or fire fighter with the city.

(b) At age 50 a Group A member is eligible to begin drawing a monthly Group A retirement pension. A monthly Group A retirement pension equals 50 percent of the base pay per month, plus 50 percent of any longevity pay the Group A member was receiving at the time the member left active service. Although the number of years used in the computation of longevity pay remains fixed at the earlier of the time

a Group A member leaves active service or begins participation in DROP, the monthly rate of longevity pay used in this computation is subject to change in the event of an amendment to the state law governing longevity pay. The monthly Group A retirement pension benefits of Group A pensioners shall be adjusted from time to time in a like manner.

(c) In addition to the amount computed under Subsection (b) of this section, at age 50, a Group A member is eligible to begin drawing an annual Group A retirement pension. An annual retirement pension equals 50 percent of the difference between the annualized amount of city service incentive pay and longevity pay. In determining city service incentive pay and longevity pay for purposes of this element of the annual Group A retirement pension only the following apply:

(1) City service incentive pay is calculated in the same manner as the city service incentive pay is calculated for members currently on active service except:

(A) the annual salary of a Group A pensioner used in calculating city service incentive pay is determined on the basis of the last city civil service rank held by the Group A pensioner when the person was on active service; however, if the rank no longer exists, its closest equivalent shall be determined by the board and applied; and

(B) the annual salary of a Group A pensioner as determined under Paragraph (A) of this subdivision shall be that amount in effect on the last day of September of each year the Group A pensioner's annual retirement pension is calculated.

(2) Longevity pay shall be calculated as 12 times the amount of monthly longevity pay the Group A pensioner was receiving at the time such person left active service, except that the monthly rate of longevity pay used in this computation is subject to change if an amendment to state law governing longevity pay is enacted.

(d) The element of annual retirement pension computed under Subsection (c)(1) of this section is subject to the following limitations:

(1) it shall be prorated for the year in which the pensioner begins receiving a retirement pension;

(2) it shall be payable only to those Group A pensioners who, as Group A members on active service, received city service incentive pay and who receive a monthly Group A retirement pension as

determined under Subsection (b) of this section on the last day of September of each year; and

(3) it shall be paid to Group A pensioners as long as the city continues to pay city service incentive pay to Group A members on active service.

(4) Notwithstanding Subsections (b) and (c) of this section, a Group A member with a minimum of 20 years of pension service may apply for an actuarially reduced retirement pension to begin no earlier than when the member attains age 45 but before the member attains age 50. The Group A member who has made an application may receive a retirement pension calculated under Subsections (b) and (c) of this section reduced by two-thirds of one percent per month for each whole calendar month the benefit is payable before the month in which the Group A member attains age 50.

(e) At age 55 a Group A member is eligible to begin drawing a monthly retirement pension computed as follows:

(1)(A) at the rate of three percent of base pay for each year, prorated for fractional years, of pension service, with a maximum of 32 years of pension service, or 96 percent of base pay; or

(B) if the Group A member had 34 or more years of pension service as of April 30, 1990, then the member's retirement pension is calculated at the rate calculated under the terms of the combined pension plan in effect on April 30, 1990, if the resulting amount would be greater than the amount calculated under Paragraph (A) of this subdivision; plus

(2) one-half of the longevity pay the Group A member was receiving at the time the person left active service; plus

(3) 1/24th, without subsequent adjustment, of the annualized amount of the city service incentive pay the Group A member received at the time the person left active service.

(f) For purposes of Subsection (e) of this section, base pay and longevity pay are the amounts in effect on the earlier of the date the member begins participation in DROP or the date benefits are to begin, without subsequent adjustment.

(g) Notwithstanding Subsection (e) of this section, a Group A member with 20 or more years of pension service may apply for an actuarially reduced Group A retirement pension beginning on or after the date the Group A member attains age 50 but before the person attains age 55. The Group A member may receive a retirement pension calculated under Subsection (e) of this section reduced by two-thirds

of one percent per month for each whole calendar month the benefit is payable before the month in which the Group A member attains age 55.

(h) Entitlement to the Group A retirement pension described by this section is subject to the following conditions:

(1) a written application must be filed with the executive director;

(2) the grant of a Group A retirement pension by the board must be made at a meeting of the board held during the month the retirement pension is to become effective, or as soon after that as administratively possible; and

(3) the Group A member must no longer be on active service.

Sec. 6.02. GROUP B RETIREMENT PENSION. (a) If a Group B member has accrued five or more years of pension service, is no longer on active service with the department, has not withdrawn the member's contributions, and otherwise meets the age and pension service requirements under the applicable provision of this section, the member may apply for a Group B retirement pension under this section. A member's benefit election application under a provision of this section, once approved, is irrevocable.

(a-1) If a Group B pensioner returns to active service as a police officer or fire fighter with the city, the person's Group B retirement pension ceases until that person again leaves active service with the city.

(a-2) If a Group B pensioner resumes employment with the city in a capacity other than as a police officer or fire fighter, the pensioner's Group B retirement pension continues during the period of employment except the pensioner may not accrue additional credit for pension service during this period. Additional credit for pension service does not accrue during any period in which a Group B pensioner becomes employed by the city unless the additional credit is attributable to active service as a police officer or fire fighter with the city.

(b) A Group B member who began active service before March 1, 2011, and who has attained at least 50 years of age, or who began active service on or after March 1, 2011, and has attained at least 58 years of age, and who otherwise meets the requirements of Subsection (a) of this section may elect to receive a Group B retirement pension that shall be calculated as follows:

(1) for a member who began active service before March 1, 2011, the member's retirement pension shall be the sum of:

(A) the number of years of pension service before September 1, 2017, prorated for fractional years, times three percent of the average computation pay determined over the 36 consecutive months of pension service in which the Group B member received the highest computation pay; plus

(B) the number of years of pension service on or after September 1, 2017, prorated for fractional years, times the applicable percentage prescribed by Subsection (b-1) of this section of the average computation pay determined over the 60 consecutive months of pension service in which the Group B member received the highest computation pay; or

(2) for a member who began active service on or after March 1, 2011, the member's retirement pension shall be the number of years of pension service, prorated for fractional years, times 2.5 percent of the average computation pay determined over the 60 consecutive months of pension service in which the member received the highest computation pay.

(b-1) For purposes of Subsection (b)(1)(B) of this section, the applicable percentage is based on the age of the Group B member when the member's retirement pension begins as set forth below:

Age of Member When Retirement Pension Begins	Percent
58 and older	2.5%
57	2.4%
56	2.3%
55	2.2%
54	2.1%
53 and younger	2.0%

(b-2) Days during which the member earned no pension service due to a termination of active service or otherwise must be disregarded in determining the 36 or 60 consecutive months of highest computation pay under Subsection (b)(1) or (2) of this section, as appropriate. The pension benefit calculated under Subsection (b) of this section may not exceed the greater of:

(1) 90 percent of the member's average computation pay determined under the applicable subsection; or

(2) the vested and accrued benefit of a member as determined on August 31, 2017.

(c) Except as provided by Subsection (c-2) of this section, a Group B member who has either attained at least 45 years of age on

September 1, 2017, or who attains at least 53 years of age after September 1, 2017, and who otherwise meets the requirements of Subsection (a) of this section may elect to receive an actuarially reduced Group B retirement pension calculated in accordance with Subsection (c-1) of this section:

(1) not earlier than the member's 45th or 53rd birthday, as applicable; and

(2) not later than the member's 50th or 58th birthday, as applicable.

(c-1) Except as provided by Subsection (c-2) of this section and subject to Section 6.021 of this article, a Group B member who applies for an actuarially reduced Group B retirement pension under Subsection (c) of this section shall receive a pension calculated under Subsection (b) of this section, reduced by two-thirds of one percent per month, for each whole calendar month the benefit is payable before the month in which the member attains:

(1) for members who attained at least 45 years of age on September 1, 2017, 50 years of age; or

(2) for members not described by Subdivision (1) of this subsection who attain at least 53 years of age after September 1, 2017, 58 years of age.

(c-2) Subject to Subsection (d-3) of this section and for purposes of Subsection (c-1) of this section, if a Group B member's pension benefit calculated under Subsection (b) of this section is equal to 90 percent of the member's average computation pay, the member is entitled to a Group B retirement pension under Subsection (c) of this section at 45 or 53 years of age, as applicable, that is not actuarially reduced as provided under Subsection (c-1) of this section.

(d) Except as provided by Subsection (d-2) of this section, a Group B member who has accrued 20 or more years of pension service and has been on active service at any time on or after January 1, 1999, may elect to apply for a Group B retirement pension beginning at any time after the Group B member leaves active service, regardless of age. A Group B member may elect a Group B retirement pension under this subsection as follows:

(1) if the member accrued 20 or more years of pension service on or before September 1, 2017, the member may elect a pension under this subsection that is computed in the same manner as the Group B retirement pension under Subsection (b)(1) of this

section except that the percentage set forth below must be used instead of the three percent multiplier prescribed by Subsection (b)(1)(A) of this section:

Age of Member When Retirement Pension Begins	Percent
48 and 49	2.75%
47	2.5%
46	2.25%
45 and younger	2%; and

(2) except as provided by Subsection (d-2) of this section and subject to Section 6.021 of this article, if the member accrued 20 or more years of pension service after September 1, 2017, the member may elect a pension under this subsection computed in the same manner as the Group B retirement pension under Subsection (b)(2) of this section except that the percentage set forth below must be used instead of the 2.5 percent multiplier prescribed by Subsection (b)(2) of this section:

Age of Member When Retirement Pension Begins	Percent
57	2.4%
56	2.3%
55	2.2%
54	2.1%
53 and younger	2.0%

(d-1) A member who elects a pension under Subsection (d) of this section is not entitled to:

(1) minimum benefits under either Section 6.10A or 6.11 of this article; or

(2) benefits under Subsection (g) of this section.

(d-2) Subject to Subsection (d-3) of this section and for purposes of Subsection (d) of this section, if a Group B member's pension benefit calculated under Subsection (b) of this section is equal to 90 percent of the member's average computation pay, the member is entitled to a Group B retirement pension under Subsection (d) of this section that is not reduced as provided under Subsection (d)(1) or (2) of this section.

(d-3) For purposes of Subsections (c-2) and (d-2) of this section, a Group B member's pension benefit calculated under Subsection (b) of this section shall be calculated without

application of any reduction under Subsection (b-1) of this section.

(e) A Group B member or former Group B member with 34 or more years of pension service as of April 30, 1990, is entitled to receive the greater of a Group B retirement pension calculated under the terms of Plan B as in effect on that date or a Group B retirement pension calculated pursuant to Subsection (b) of this section.

(f) Deleted.

(g) In no event may any Group B member who was at any time a Group A member or a contributing member of the old plan or Plan A, and who satisfied the applicable age and length-of-service requirements of the applicable plan at the time the person left active service, receive a retirement pension in an amount less than the amount the person would be entitled to receive as a Group A member.

(h) Notwithstanding any other provision of this section, a Group B member who was not a Group B member on or after January 1, 1993, shall receive a retirement pension calculated under the applicable provisions of Plan B as that plan existed on the date the member terminated active service.

(i) Entitlement to a Group B retirement pension under Subsection (b), (c), (d), or (e) of this section is subject to the following conditions:

(1) a written application must be filed with the executive director;

(2) the grant of the Group B retirement pension by the board must be made at a meeting of the board held during the month the retirement pension is to become effective, or as soon after as administratively possible; and

(3) the Group B member may no longer be on active service.

Sec. 6.021. AUTHORITY TO ADOPT ALTERNATIVE MULTIPLIERS FOR COMPUTATION OF CERTAIN GROUP B BENEFITS. (a) For purposes of Section 6.02(c-1) or (d)(2) of this article, the board by rule may adopt alternative multipliers, including an alternative table prescribing actuarially appropriate multipliers. In adopting rules under this subsection, the board shall designate the date on which the alternative multiplier shall take effect.

(b) Copies of any alternative multipliers adopted under this section must be maintained at the principal office of the pension system and published on the pension system's publicly available Internet website.

Sec. 6.022. AUTHORITY TO REDUCE RETIREMENT AGE. Notwithstanding any other law, the board may reduce the age at which a Group B member is eligible to begin receiving a retirement pension, including an actuarially reduced retirement pension, under Section 6.02 of this article if the board determines that the reduction will not cause the amortization period of the unfunded actuarial accrued liability of the pension system to exceed 25 years, after taking into account the impact of the reduction. A board action under this section may not take effect until the State Pension Review Board reviews the board's determination described by this section.

Sec. 6.03. DISABILITY BENEFITS. (a) If a member who is on active service, other than a member participating in DROP, becomes disabled to the extent that the member cannot perform the member's duties with the member's department, the member may apply for a disability pension, subject to any uniform and nondiscriminatory disability application procedure and recall and review procedure adopted by the board and in effect from time to time.

(b) No disability pension may be paid until a member has been prevented, by a disability, from performing the member's duties with the member's department for a period of at least 90 consecutive calendar days, and no disability benefits may be paid for any portion of the 90-day period. The board may waive the waiting period on request by the member, if the request is supported by credible evidence acceptable to the board that the disability is wholly and immediately incapacitating. The board may request from the city such information, including any employment application and any related physical test and medical examination records, as may be desirable in evaluating the disability application.

(c) No disability pension may be paid for any disability if the disability was a result of the member's commission of a felony, except that this restriction may be waived by the board if it believes that facts exist that would mitigate the denial of the member's application for a disability pension.

(d) No disability pension may be paid to a member for any disability if the disability was a result of an intentionally self-inflicted injury or a chronic illness resulting from an addiction by the member through a protracted course of indulgence in alcohol, narcotics, or other substance abuse that was not coerced.

(e) No disability pension may be paid until the health director has either examined the member or reviewed reports of the member's

physical or mental condition submitted to the health director by competent outside medical practitioners.

(f) No disability pension may be paid if the chief of the member's department is able to provide the member with duties that are within the member's physical or mental capabilities, even though the duties are different from the duties the member performed before the disability.

(g) Written application for a disability pension must be filed with the executive director not later than the 180th day after the date the member leaves active service. The application must be accompanied by a recommendation from the health director. This recommendation shall contain a statement indicating whether the member became disabled while the member was on duty or off duty and whether the disability was service-connected or was not service-connected.

(h) The recommendation from the health director shall also contain a statement indicating the date the member became disabled or indicating that the disability prevented the member from performing the member's duties for a period of not less than 90 days.

(i) An application for disability retirement will be considered at the meeting of the board held during the month the disability pension is to become effective or as soon after the effective date of the disability pension as possible. No disability pension may be paid, however, until the board has approved the application.

(j) If a person who became a Group B member pursuant to Section 5.01(a)(2)(E) of this article withdraws the person's contributions pursuant to Section 4.04 of this article and leaves active service with vested rights in the old plan, Plan A, or the combined pension plan in existence before January 1, 1993, the Group B member must, on return to active service, earn five years of pension service after the date of return to receive a Group B disability pension. If the Group B member is disabled before earning five years of pension service following a return to active service, the person may receive only a Group A disability pension.

(k) For purposes of Sections 6.04 and 6.05 of this article and this section:

(1) longevity pay and incentive pay are the amounts in effect on the date the benefits are to begin, without subsequent adjustment; and

(2) except as provided by Section 6.05(b-1) of this

article, base pay is the amount in effect on the date benefits are to begin, without subsequent adjustment.

(l) Notwithstanding any other law, Subchapter B, Chapter 607, Government Code, applies to all members without regard to the employing department or job assignment.

Sec. 6.035. DISABILITY BENEFITS FOR CERTAIN PERSONS IN UNIFORMED SERVICES. (a) In this section, "uniformed services" has the meaning assigned by the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.).

(b) This section applies to a person who was released from the uniformed services after December 17, 2001, under conditions that would have made the person eligible for benefits under Section 414(u) of the code if the person could have returned to active service.

(c) If a person subject to this section was unable to return to active service by reason of disability incurred while on a leave of absence due to service in the uniformed services, that person is entitled to a regular disability pension in accordance with Section 6.03 of this article, calculated in accordance with Section 6.04 of this article.

(d) Notwithstanding Section 6.03(g) of this article, a written application for a disability pension must be filed not later than the 180th day after the date of the person's release from the uniformed services.

(e) A person subject to this section is entitled to receive pension service for the period of service with the uniformed services only to the extent that contributions are made for that period in accordance with this article.

Sec. 6.04. CALCULATION OF REGULAR DISABILITY BENEFITS. (a) Subject to Subsection (g) of this section, if a Group A member's application for a Group A disability pension has been approved by the board pursuant to Section 6.03 of this article, including any procedures adopted under that section, the Group A member may elect to receive a Group A disability pension calculated:

(1) in the same manner as the benefit under Sections 6.01(b) and (c) of this article; or

(2) under Subsection (c) of this section.

(b) An election under Subsection (a) of this section, once approved by the board, is irrevocable.

(c) Subject to Subsection (g) of this section, a Group A member who elects to have benefits determined under this subsection is

entitled to a monthly disability pension calculated as follows:

(1) at a rate of three percent of base pay for each year, prorated for fractional years, of pension service, with a maximum of 32 years of pension service being credited, or 96 percent of base pay, except that if the Group A member had 34 or more years of pension service as of April 30, 1990, the member is entitled to receive the greater of a disability pension calculated under the terms of the combined pension plan in effect on that date or as calculated under this subdivision; plus

(2) one-half of the longevity pay the Group A member was receiving at the time the member left active service; plus

(3) subject to Subsection (d) of this section, 1/24th of the annualized amount of city service incentive pay the Group A member received at the time the member left active service.

(c-1) The disability pension calculated under Subsection (c) of this section may not exceed the greater of:

(1) 90 percent of the member's average base pay determined under the applicable subsection; or

(2) the vested and accrued disability pension of the member as determined on August 31, 2017.

(d) Payments of the amounts described by Subsection (c)(3) of this section are contingent on the city's continuing payment of city service incentive pay to Group A members on active service.

(e) If a Group B member's application for a Group B disability pension has been approved by the board under Section 6.03 of this article, including any procedures adopted under that section, the Group B member may elect to receive a Group B disability pension calculated in the manner described by Subsection (f) or (f-1) of this section, subject to Subsection (g) of this section.

(f) Subject to Subsections (f-1), (f-3), and (g) of this section, the disability pension of a Group B member shall be calculated as follows:

(1) for a member who began active service before March 1, 2011, the member's disability pension shall be the sum of:

(A) the member's number of years of pension service earned before September 1, 2017, prorated for fractional years, times three percent of the average computation pay determined over the 36 consecutive months of pension service in which the member received the highest computation pay; plus

(B) the number of years of pension service, including

pension service credit imputed under Section 6.05(c) of this article, earned on or after September 1, 2017, prorated for fractional years, times the applicable percentage prescribed by Section 6.02(b-1) of this article of the average computation pay determined over the 60 consecutive months of pension service in which the member received the highest computation pay; or

(2) for a member who began active service on or after March 1, 2011, the member's disability pension shall be the number of years of pension service, including pension service credit imputed under Section 6.05(c) of this article, prorated for fractional years, times 2.5 percent of the average computation pay determined over the 60 consecutive months of pension service in which the member received the highest computation pay.

(f-1) Notwithstanding Subsection (f) of this section, for a Group B member who had 34 or more years of pension service as of April 30, 1990, the member is entitled to receive the greater of a disability pension calculated under the terms of Plan B in effect on April 30, 1990, or calculated under Subsection (f) of this section.

(f-2) For purposes of Subsections (f) and (f-1) of this section:

(1) any partial year of pension service for a Group B member's first 20 years of pension service is counted as a full year of pension service, if the member was considered by the member's department to have worked a normal full-time schedule at the time of the disability;

(2) if the member has less than 36 or 60 consecutive months of pension service, as applicable, the member's average computation pay will be computed based on the member's entire pension service; and

(3) days during which the member earned no pension service due to a termination of active service or otherwise must be disregarded in determining the 36 or 60 consecutive months of highest computation pay.

(f-3) The disability pension calculated under Subsection (f) or (f-1) of this section may not exceed the greater of:

(1) 90 percent of the member's average computation pay determined under the applicable subsection; or

(2) the vested and accrued disability pension of the member as determined on August 31, 2017.

(g) The disability pension calculated in accordance with this

section, including both a Group A benefit described by Subsection (a) of this section and a Group B benefit described by Subsection (f) of this section, shall be reduced dollar-for-dollar by any monthly disability compensation benefit received under Section 6.05 of this article. If the monthly disability compensation benefit provided to a member under Section 6.05 of this article equals or exceeds any benefit the member is entitled to under this section or Section 6.01(b) or (c) of this article, the member may not receive the benefit under this section.

Sec. 6.05. COMPENSATION BENEFITS FOR SERVICE-CONNECTED DISABILITY. (a) If a member leaves active service at any time due to disability and the board determines that the member with the disability became unable to perform the member's duties with the member's department due to an injury or sickness incurred in the performance of the member's duties, the member is entitled to periodic disability compensation benefits in accordance with this section.

(b) Subject to Subsection (b-1), a Group A member whose disability, as determined by the board, was caused by an injury or sickness incurred in the performance of the member's duty shall receive a monthly benefit equal to 60 percent of the member's base pay. For purposes of this subsection, "base pay" is the amount in effect on the date compensation benefits under this section are to begin, without subsequent adjustment.

(b-1) Instead of receiving a periodic disability compensation benefit under Subsection (b) of this section, a Group A member who is entitled to periodic disability compensation benefits under this section may elect, before the benefits begin, to receive those benefits as a monthly benefit equal to 50 percent of the member's base pay adjusted from time to time to reflect changes in base pay that occur after the member began receiving a monthly compensation benefit under this section.

(c) A Group B member whose disability, as determined by the board, was caused by an injury or sickness incurred in the performance of the member's duty shall receive a monthly benefit equal to the disability pension under Sections 6.04(f), (f-1), (f-2), and (f-3) of this article except that if the member:

(1) does not have 20 years of pension service, the member is considered to have 20 years of pension service for the purposes of calculating the disability pension under that section; and

(2) has less than 36 or 60 consecutive months, as applicable, of employment with the department, the member's average computation pay will be computed based on all the member's computation pay, and days during which the member earned no pension service due to a termination of active service or otherwise must be disregarded in determining either the 36 or 60 consecutive months of highest computation pay.

(d) Redesignated as Sec. 6.055 by Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.35, eff. September 1, 2017.

(e) For purposes of Subsection (d) of this section, the phrase "earned income" means income earned by a Group B pensioner in the form of wages, salaries, commissions, fees, tips, unemployment benefits, and other amounts received by virtue of employment or self-employment but paid before any deduction for taxes or insurance. In addition, earned income also includes those amounts contributed on a before-tax basis to any retirement plan or employee health and welfare benefit plan.

Sec. 6.055. REDUCTION IN DISABILITY OR COMPENSATION BENEFITS FOR CERTAIN PERSONS. (a) In this section, "earned income" means income earned by a Group B pensioner in the form of wages, salaries, commissions, fees, tips, unemployment benefits, and other amounts received by virtue of employment or self-employment but paid before any deduction for taxes or insurance. In addition, earned income also includes those amounts contributed on a before-tax basis to any retirement plan or employee health and welfare benefit plan.

(b) The board shall require any Group B pensioner who became a member of Plan B or the combined pension plan on or after May 1, 1990, and who is receiving a Group B disability pension under Section 6.04 of this article or a periodic disability compensation under Section 6.05 of this article to provide the board annually, on or before July 1 of each year, with a true and complete copy of those portions of the person's federal and, if applicable, state tax return, including appropriate schedules, for the previous calendar year that indicate the person's occupations, if any, and earned income for the previous calendar year. If the pensioner did not file a tax return for the previous calendar year, the board may require other documentation reflecting the pensioner's occupation or earned income that the board determines appropriate.

(c) The pension system may waive the July 1 date under Subsection (b) of this section in lieu of one later in the same

calendar year if the Group B pensioner provides the board with a true and complete copy of a grant of an extension of time for the filing of the person's tax return from the appropriate governmental agency or a true and complete copy of an extension request that results in any automatic extension.

(d) If, after evaluating the information received under Subsection (b) of this section, the board finds the Group B pensioner is or has been receiving earned income from one or more employments, including self-employment, during the preceding year, the board shall reduce future disability retirement payments to the Group B pensioner in accordance with the following formula: $1 for each $1 that the sum of "a" + "b" is greater than "c," where "a" is the earned income of the Group B pensioner attributable to the previous calendar year from the person's employments, "b" is the total amount of Group B disability retirement payments received by the Group B pensioner the previous calendar year, and "c" is the annualized amount of the average computation pay the Group B pensioner received as of the date the person left active service.

(e) For purposes of the computation under Subsection (d) of this section, the average computation pay shall be deemed increased at a rate of 2.75 percent, without compounding during the year, as of each January 1 that the Group B pensioner receives a Group B disability retirement payment.

Sec. 6.06. GENERAL RULES GOVERNING DEATH BENEFITS. (a) Any award of a death benefit is subject to the conditions required by this section.

(b) A written application for benefits must be filed with the executive director.

(c) The application will be considered at the meeting of the board held during the month death benefits are to become effective, or as soon as possible after the date the benefits become effective. No benefits may be paid, however, until the board has approved the application.

(d) The board may require the applicant to provide proof of eligibility, such as marriage licenses, birth certificates, adoption papers, or sworn statements. The board may withhold any death benefit until the eligibility of the applicant has been confirmed.

(e) If surviving children of a primary party are not qualified survivors entitled to death benefits, the spouse of the primary party who is a qualified survivor is entitled only to receive a share of

the death benefits in the amount calculated under Section 6.07(a) or Section 6.08(b)(1), (c)(1), (d)(1), or (e)(1) of this article, whichever is applicable, and is not entitled to what otherwise would be the surviving children's share.

(e-1) If a primary party had no surviving spouse, any surviving child who is a qualified survivor shall receive only the amount calculated under Section 6.07(a) or Section 6.08(b)(2), (c)(2), (d)(2), or (e)(2) of this article, whichever is applicable, and is not entitled to what otherwise would be the surviving spouse's share.

(e-2) If a primary party does not have a spouse or children who are qualified survivors, any dependent parent of the primary party who is a qualified survivor shall receive only the amount calculated under Section 6.07(c) or Section 6.08(b)(3), (d)(3), or (e)(3) of this article, whichever is applicable, and is not entitled to what otherwise would be the surviving spouse's or surviving children's share.

(f) The total monthly death benefits received by the qualified survivors of a primary party under this article, including the primary party's spouse, children, or dependent parents, may not exceed the pension to which the deceased primary party was entitled per month.

(g) If there is no surviving spouse or legal guardian for the surviving children of a primary party who are qualified survivors and if the board determines that the surviving children lack the discretion to handle money, or in other appropriate circumstances, notwithstanding any other provision of this section, the board may request a court of competent jurisdiction to appoint a suitable person to receive and administer the surviving children's money or in those circumstances described in Subsection (n) of this section, appoint a new trustee to administer the surviving children's trust.

(h) With the exception of a trust described in Subsection (n) of this section, no death benefits awarded to surviving children may be used for any purpose other than to benefit the surviving children.

(i) Repealed by Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.52(4), eff. September 1, 2017.

(j) With the exception of those circumstances described in Subsection (n) of this section, death benefits payable to surviving children shall be delivered to the legal guardian of the estate of the surviving children if one has been appointed and the pension system has been provided proof of the appointment. If no legal

guardian has been appointed, death benefits shall be delivered to one of the following persons, provided there is evidence that the person is a suitable person to receive and administer the benefits:

(1) the surviving spouse with whom the child resides; or

(2) the adult head of the household with whom the child resides, if the child does not reside with the surviving spouse.

(j-1) In accordance with Subsection (h) of this section, the recipient of a surviving child's death benefits under Subsection (j) of this section must use the death benefits to benefit the child. The board may withhold payment of benefits to anyone, if presented with evidence that the death benefits are not being used to benefit the surviving child.

(k) Dependent parents of a primary party who are entitled to receive death benefits provided by this article may only receive the benefits for the remainder of the dependent parents' lives.

(l) The pension system may require all qualified survivors receiving death benefits to file a sworn statement with the executive director concerning the qualified survivor's eligibility to continue to receive death benefits at least once every two years, or at any other time the executive director considers a sworn statement to be appropriate to evidence the continued eligibility of the qualified survivor. The board may withhold death benefits from any person who fails or refuses to file a statement when requested to do so.

(m) When the last qualified survivor of any primary party becomes ineligible to continue to receive death benefits, an amount equal to the excess, if any, of the total amount of all contributions made to the fund by the primary party while a member over the sum of all benefits paid to the primary party and all of the primary party's qualified survivors shall be paid in a lump sum to the last person to receive benefits as a qualified survivor or, if none exists, to the member's designee. The total amount to be paid in benefits to the primary party and all qualified survivors shall never be less than the total amount of contributions the primary party made to the fund while a member.

(n) Notwithstanding any other provision of this section:

(1) death benefits awarded to an unmarried child who is a qualified survivor who is determined by the board to be disabled under the terms of Subsection (o-2) of this section may be paid to the trustee of a management trust, supplemental needs or special needs trust, or comparable trust established for the benefit of the

child, if the trust meets the requirements set forth in a procedure adopted from time to time by the board; and

(2) as soon as practicable after the pension system has knowledge of an event listed in this subdivision, the pension system shall terminate payment of death benefits to a trust described by Subdivision (1) of this subsection effective on the earlier occurrence of the following events:

(A) the date as of which the child is determined by the board to no longer be disabled under the terms of this section;

(B) the date on which the child is lawfully married;

(C) the date on which the child is deceased;

(D) the date on which the pension system becomes aware that the assets of the trust are deemed to be the resources of the child under applicable federal or state laws or regulations; or

(E) if the trustee of the child's trust fails to provide a court of competent jurisdiction with an annual accounting of the child's trust, the date occurring six months after the date of the close of the trust's fiscal year.

(o) When a child who, as a qualified survivor, is entitled to receive death benefits under this article reaches the age of 19, the child may no longer participate in the division of the benefits, but the same undiminished child's share as determined by this section shall be paid to any remaining children who are qualified survivors who remain eligible to continue to receive death benefits.

(o-1) If benefits are no longer payable to the trust described in Subsection (n)(1) of this section in accordance with Subsection (n)(2) of this section, the benefits are divisible and payable to any remaining children who are qualified survivors who remain eligible to receive death benefits.

(o-2) If an unmarried child, after cessation of entitlement to death benefitsbecause of attainment of age 19, becomes disabled before age 23, the child is entitled to participate in the division of death benefits under this article. Notwithstanding the preceding, all death benefits granted under this subsection are conditioned on the board finding that:

(1) the child is so physically or mentally disabled, either congenitally or through injury suffered or disease contracted, as to be unable to be self-supporting or to secure and hold gainful employment or pursue an occupation;

(2) the child is not married;

(3) the disability was not the result of an occupational injury for which the child received compensation equal to or greater than that provided under this article;

(4) the disability was not the result of an intentional self-inflicted injury or a chronic illness itself resulting from an addiction of the child through a protracted course of indulgence in alcohol, narcotics, or other substance abuse that was not coerced; and

(5) the disability did not occur as a result of the child's participation in the commission of a felony.

(p) If a child with a disability received or is receiving workers' compensation resulting from an occupational injury equal to an amount less than the death benefit to be provided under this section, the difference shall be paid out of the assets of the fund in the form otherwise payable as monthly benefits. For purposes of Subsections (o), (o-1), and (o-2) of this section, if a lump sum is awarded for an injury, the fund's actuary may compute a corresponding monthly equivalent. A finding relating to a child's disability is subject to periodic review and modification by the board.

(q) On the death or marriage of a child granted death benefits under this article, the death benefits shall cease being paid to that child; however, the same undiminished child's share as determined by this section shall be uniformly distributed among any remaining unmarried children who are:

(1) under 19 years of age; or

(2) disabled as described by Subsection (o-2) of this section and entitled to death benefits as qualified survivors.

(r) A spouse of a primary party who married the primary party after the date the primary party terminated active service is not a qualified survivor and is entitled only to those death benefits, if applicable, provided under Section 6.063 of this article.

(s) Repealed by Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.52(4), eff. September 1, 2017.

(t) A surviving spouse who first remarried on or after April 21, 1988, is eligible to receive death benefits for the remainder of the spouse's life provided the surviving spouse is a qualified survivor. This subsection may not be applied retroactively.

(u) The eligibility of a surviving spouse who first remarried before April 21, 1988, is governed by Section 6.061 of this article.

(v) The qualified survivors of a member who dies while

performing qualified military service are entitled to any additional benefits, other than benefits relating to the qualified military service, that qualified survivors would have received if the member had returned from qualified military service the day before death, resumed employment, and then died.

Sec. 6.061. PROSPECTIVE REINSTATEMENT OF CERTAIN DEATH BENEFITS. (a) Subject to Subsection (c) of this section, the surviving spouse of a primary party who was a member of the old plan, Plan A, or Plan B whose death benefits, also referred to as "survivor benefits" or "widow benefits," terminated because of a remarriage of the surviving spouse that occurred before April 21, 1988, is entitled to receive death benefits, on a prospective basis only, as of the first day of the month following the month in which the executive director receives the application.

(b) The board shall make reasonable efforts to notify all known living surviving spouses who may be entitled to a reinstatement of benefits under this section.

(c) A surviving spouse's properly completed, board-approved application for reinstatement of death benefits under this section must be received by the executive director not later than the 180th day after the date the board completes, as determined by the board, the reasonable efforts required by Subsection (b) of this section.

(d) A surviving spouse's application for reinstatement of death benefits under this section constitutes the spouse's waiver of any claims against the pension system, the board, the executive director, or any other employee of the board or the pension system arising out of any claim for death benefits.

(e) This section may not be applied retroactively. A surviving spouse may not receive death benefits attributable to periods before the executive director's receipt of a properly completed and board-approved application, and any benefit provided to a surviving spouse described in this section must be calculated as if the benefits had not terminated on the surviving spouse's remarriage notwithstanding the fact the reinstatement of benefits is not retroactive.

Sec. 6.062. LUMP-SUM PAYMENT ON DEATH OF CERTAIN MEMBERS. (a) If an unmarried member dies while on active service and before beginning participation in DROP, the last person to receive benefits as the member's qualified survivor or, if the member does not have a qualified survivor living, the member's designee, shall be paid a lump-sum payment determined in accordance with this section if, at

the time of the member's death, the member:

(1) had no qualified survivors; or

(2) only had qualified survivors who are children who become ineligible to receive death benefits before the benefits were paid for at least 120 consecutive months.

(b) The amount of the lump-sum payment under this section is the greater of:

(1) the payment that could have been provided under Section 6.06(m) of this article; or

(2) an amount equal to the actuarial equivalent of the remainder of the monthly benefits that would have been paid for the period from the last monthly benefit payment to the end of the 120 months, starting with the date of the first monthly benefit payment, if any.

(c) If no death benefit payments have been made with respect to the member, the amount of a monthly death benefit payment shall be considered to be the monthly death benefit that would have been paid if the member had died leaving only one dependent parent who was a qualified survivor.

(d) If a qualified survivor or designee is entitled to payment under both this section and Section 6.06(m) of this article, payments shall be made only under this section.

(e) The payment required under this section shall be made as soon as practicable after the later of the date:

(1) of the death of the member; or

(2) the last qualified survivor becomes ineligible to receive monthly death benefit payments.

Sec. 6.063. AUTHORITY TO ELECT CERTAIN ACTUARIALLY REDUCED BENEFITS. (a) The board shall adopt policies under which a member who is leaving active service or a pensioner may elect to accept actuarially reduced benefits to provide the following optional benefits:

(1) a 100 percent joint and survivor annuity with the member's or pensioner's spouse;

(2) a 50 percent joint and survivor annuity with a spouse who is not a qualified survivor because the marriage to the pensioner occurred after the pensioner terminated active service, provided the election is made not later than one year after the date of the marriage; or

(3) a death benefit for a child who is not a qualified

survivor because the child was born or adopted after the member left active service, but only if the child:

(A) is a dependent of the pensioner, within the meaning of Section 152(a)(1) of the code; and

(B) has not attained 18 years of age at the time of the election.

(b) An election under this section may not be revoked by the member or pensioner after it is filed with the pension system.

(c) Notwithstanding any other provision of this article, an election under this section shall result in benefits being paid as prescribed by this section instead of as prescribed by Section 6.01, 6.02, 6.04, 6.05, 6.07, or 6.08 of this article, as applicable.

(d) A pensioner who desires to make an election under Subsection (a)(1) of this section after having made an election under Subsection (a)(2) of this section shall incur a second actuarial reduction in benefits to pay for the increased survivor annuity.

(e) Except as provided by Subsection (f) of this section, a person is not entitled to the payment of benefits under this section with respect to a pensioner who makes an election after termination of active service and dies within one year after making the election, except the amount by which the pensioner's benefits were reduced are paid to the person who is entitled to receive payments under Section 6.064 of this article.

(f) Subsection (e) of this section does not apply to a person who makes an election under Subsection (a)(1) of this section to receive a 100 percent joint and survivor annuity with a spouse who is a qualified survivor at the time:

(1) the board grants a retirement pension; or

(2) a retirement pension would have been granted but for the fact that the person elected to participate in DROP after retirement.

(g) The actuarially reduced benefits being paid to the pensioner under this section will not be increased if the spouse dies before the pensioner, or if the child attains 19 years of age before the pensioner dies.

(h) The joint and survivor annuity or the pensioner's pension and child's death benefit payable under this section is the actuarial equivalent of the pension and death benefits, if any, that would have been payable, at the time of the election, if the election had not been made. On the death of the pensioner:

(1) the surviving spouse of a pensioner who made an election under Subsection (a)(1) of this section receives a pension that is equal to the reduced pension being received by the pensioner at the time of death; and

(2) a surviving spouse who is not a qualified survivor of a pensioner who made an election under Subsection (a)(2) of this section receives a pension that is 50 percent of the reduced pension being received by the pensioner at the time of death.

(i) A pensioner and surviving spouse receiving a death benefit payable under this section are eligible for adjustments under Sections 6.12 and 6.13 of this article, if the pensioner or surviving spouse, as applicable, is otherwise entitled to those adjustments, except that in each case the adjustment shall be calculated so that the total pension or death benefit paid is reduced by the same percentage the pensioner's pension is otherwise reduced under this section.

(j) A pensioner and surviving spouse receiving a death benefit payable under this section are not entitled to the minimum benefits provided under Section 6.10A, 6.10B, or 6.11 of this article.

(k) A surviving spouse receiving a death benefit payable under this section is not entitled to the special death benefit provided under Section 6.09 of this article.

(l) During a period in which there are two or more qualified survivors of a member who has made a joint and survivor annuity election under this section, the spousal benefit will be divided among the eligible survivors under Section 6.07 or 6.08 of this article, as applicable.

(m) A child's death benefit elected under Subsection (a)(3) of this section is treated the same way as a death benefit to a child who is a qualified survivor, except that it is based on the actuarially reduced pension.

Sec. 6.064. DESIGNEES. (a) A member, pensioner, or qualified survivor may at any time designate, in writing, one or more persons as a designee to receive any lump-sum payment due from the pension system on the death of the member, pensioner, or qualified survivor, as applicable.

(b) A designation under this section of a person other than the spouse of the member, pensioner, or qualified survivor, as appropriate, must be made with the written consent of the spouse, if the individual has a spouse.

(c) A designation made under this section:

(1) may be revoked or changed at any time; and

(2) is void if the person designated dies or goes out of existence before the payment is made.

(d) If a member, pensioner, or qualified survivor designates a spouse to receive a payment and the parties are later divorced, the designation is void at the time of the divorce unless ratified in writing at the time of the divorce or after that time.

(e) A designation by a member under this section is void at the time the member becomes a pensioner unless ratified in writing at the time the member becomes a pensioner or after that time.

(f) If a member, pensioner, or qualified survivor does not have a valid designee on file with the pension system at the time of death, the designee is:

(1) the spouse;

(2) the qualified survivors, if any, if there is no spouse;

(3) the estate of the person, if there is no spouse or qualified survivors; or

(4) the heirs of the person, if there is no spouse, qualified survivors, or estate.

Sec. 6.07. GROUP A DEATH BENEFITS. (a)(1) If a Group A member dies before leaving active service and before the Group A member had 20 years of pension service, the Group A member's spouse and children who are qualified survivors shall, in the aggregate, receive a Group A death benefit equal to a Group A retirement pension computed under the terms of Section 6.01 of this article as if the Group A member had completed 20 years of pension service.

(2) If a Group A member dies before service retirement and after the Group A member has 20 years of pension service, the Group A member's spouse and children who are qualified survivors shall, in the aggregate, receive a Group A death benefit calculated under Section 6.01 of this article as if the Group A member had left active service on the date of the Group A member's death.

(3) If a Group A pensioner dies during service retirement, the Group A pensioner's spouse and children who are qualified survivors shall, in the aggregate, receive a Group A death benefit in an amount equal to the Group A retirement pension being received by the Group A pensioner on the date of the pensioner's death.

(4) If a Group A pensioner dies after November 25, 1996, while receiving periodic disability compensation under Section 6.05

of this article or a disability pension under Section 6.04 of this article, and before the Group A pensioner has 20 years of pension service, the Group A pensioner's spouse and children who are qualified survivors shall, in the aggregate, receive a Group A death benefit calculated under Section 6.04 or 6.05 of this article, as applicable, in the same manner as the Group A pensioner's periodic disability compensation or disability pension, but as if the Group A pensioner had completed 20 years of pension service.

(5) If a Group A pensioner who has 20 or more years of pension service dies during disability retirement, the Group A pensioner's spouse and children who are qualified survivors shall, in the aggregate, receive a Group A death benefit in an amount equal to the Group A disability pension being received by the Group A pensioner on the date of the pensioner's death.

(b) Group A death benefits under Subsection (a) of this section shall:

(1) be divided one-half to the spouse and one-half to the children who are qualified survivors; and

(2) subject to the terms of Sections 6.06(n), (o), (o-1), and (o-2) of this article, be distributed in an equal and uniform manner to the children described by Subdivision (1) of this subsection.

(c) If a Group A member or pensioner dies leaving no spouse or children who are qualified survivors, the dependent parents who are qualified survivors shall receive a Group A death benefit equal to the death benefit otherwise payable under Subsection (a) of this section. The death benefit payable to the dependent parents under this subsection shall be divided equally between the parents regardless of whether the parents are married or living at the same residence. If there is only one dependent parent, that parent is entitled to one-half of the death benefit described in this subsection.

Sec. 6.08. GROUP B DEATH BENEFITS. (a) If a Group B member dies while on active service, a Group B member who left active service and is vested under Section 5.06 of this article dies, or a Group B pensioner dies while receiving service or disability retirement or while receiving periodic disability compensation under Section 6.05 of this article, the person's qualified survivors, or the person described in Section 6.06(g) or (j) of this article as the recipient of the children's benefits, may make application for Group

B death benefits. If the deceased Group B member was previously eligible to elect whether to receive either a Group A or Group B retirement pension, the option to elect whether Group A or Group B death benefits are received shall be exercised by one of the following:

(1) a qualified survivor who is the spouse of the deceased Group B member described by this subsection;

(2) the person described in Section 6.06(g) or (j) of this article as the recipient of benefits on behalf of the deceased member's children who are qualified survivors, if no spouse is a qualified survivor; or

(3) the qualified survivors who are dependent parents of the deceased member, if there is neither a spouse nor children who are qualified survivors.

(a-1) A qualified survivor who receives Group A death benefits under Subsection (a) of this section is entitled to a ratable portion of a reimbursement from the fund in the same amount and manner determined under Section 5.03(d) of this article. A qualified survivor or guardian desiring a refund of excess contributions must make application for the refund with the executive director within three years after the date the qualified survivor or guardian makes application for Group A death benefits. The option contained in this subsection is not available to qualified survivors of a Group B member who had, at the time of death, already applied for a retirement pension and selected a Group A retirement pension as provided by Section 5.03(c) or (c-1) of this article, but the qualified survivors are entitled to receive a Group A death benefit.

(b) Subject to Subsection (b-2) of this section, death benefits shall be computed as follows for the qualified survivors of Group B members who die while on active service:

(1) the death benefit of a qualified survivor who is the spouse of a member who began active service:

(A) before March 1, 2011, shall be the sum of:

(i) the number of years of pension service earned before September 1, 2017, prorated for fractional years, times 1.5 percent of the average computation pay determined over the 36 consecutive months of pension service in which the Group B member received the highest computation pay; plus

(ii) the number of years of pension service, including pension service credit imputed under Section 6.05(c) of

this article, after September 1, 2017, prorated for fractional years, times the applicable percentage rate set forth below of the average computation pay determined over the 60 consecutive months of pension service in which the Group B member received the highest computation pay:

Age of Member When Retirement Pension Begins	Percent
58 and older	1.25%
57	1.2%
56	1.15%
55	1.10%
54	1.05%
53 and younger	1.0%; or

(B) on or after March 1, 2011, shall be the number of years of pension service, including pension service imputed under Section 6.05(c) of this article, prorated for fractional years, times 1.25 percent of the average computation pay determined over the 60 consecutive months of pension service in which the Group B member received the highest computation pay;

(2) the death benefit of qualified survivors who are a member's children shall be computed in the same manner as a spouse's benefit is computed under Subdivision (1)(A) or (B) of this subsection, as applicable, and shall be divided equally among all of the children who are qualified survivors; and

(3) the death benefit of each qualified survivor who is a member's dependent parent shall be computed in the same manner as a spouse's Group B benefit is computed under Subdivision (1)(A) or (B) of this subsection, as applicable.

(b-1) Pension service for purposes of the calculation under Subsection (b) of this section may not be less than 20 years. Any partial year of pension service for the first 20 years of pension service is counted as a full year of pension service, if the member was considered by the member's department to have worked a normal full-time schedule at the time of the member's death.

(b-2) The death benefit calculated under Subsection (b) of this section may not exceed the greater of:

(1) 45 percent of the member's average computation pay determined over the 36 or 60 consecutive months, as applicable, in which the Group B member received the highest computation pay; or

(2) the vested and accrued death benefit as determined on

August 31, 2017.

(b-3) For purposes of Subsections (b) through (b-2) of this section:

(1) if the Group B member had less than 36 or 60 consecutive months, as applicable, of pension service, the average computation pay will be computed based on the person's entire pension service; and

(2) days during which the member earned no pension service due to a termination of active service or otherwise must be disregarded in determining the 36 or 60 consecutive months of highest computation pay.

(c) Group B death benefits shall be computed as follows for the qualified survivors of any Group B member who died after leaving active service and who had vested rights under Section 5.06 of this article but who had not received retirement benefits at the time of death:

(1) the death benefit of a qualified survivor who is the member's spouse is equal to 50 percent of any retirement pension the member would have been entitled to as of the date the member left active service;

(2) the death benefits of qualified survivors who are the member's children are calculated in the same manner as the spouse's benefit is computed under Subdivision (1) of this subsection, to be divided equally between the children; and

(3) the death benefit of each qualified survivor who is the member's dependent parent is equal to 50 percent of any retirement pension the member would have been entitled to as of the date the member left active service.

(d) Group B death benefits shall be computed as follows for the qualified survivors of any Group B pensioner who dies while receiving service retirement:

(1) the death benefit of a qualified survivor who is the pensioner's spouse is equal to 50 percent of any retirement pension the Group B pensioner was receiving at the time of death;

(2) the death benefits of qualified survivors who are the pensioner's children are calculated in the same manner as the spouse's benefit is computed under Subdivision (1) of this subsection, to be divided equally between the children; and

(3) the death benefit of each qualified survivor who is the pensioner's dependent parent is equal to 50 percent of any retirement

pension the Group B pensioner was receiving at the time of death.

(e) Group B death benefits shall be computed as follows for the qualified survivors of any Group B pensioner who dies while receiving disability retirement or while receiving periodic disability compensation under Section 6.05 of this article:

(1) the death benefit of a qualified survivor who is the pensioner's spouse is equal to 50 percent of any Group B periodic disability compensation or disability pension the Group B pensioner would have been entitled to as of the date the Group B pensioner left active service because of disability, or a Group B death benefit equal to 50 percent of any periodic disability compensation or disability pension the Group B pensioner was receiving at the time of death;

(2) the death benefits of qualified survivors who are the pensioner's children are calculated in the same manner as the spouse's benefit is computed under Subdivision (1) of this subsection, to be divided equally between the children; and

(3) the death benefit of each qualified survivor who is the pensioner's dependent parent is equal to 50 percent of any periodic disability compensation or disability pension the Group B pensioner would have been entitled to as of the date the Group B pensioner left active service because of disability, or a Group B death benefit equal to 50 percent of any periodic disability compensation or disability pension the Group B pensioner was receiving at the time of death.

Sec. 6.09. QUALIFIED SURVIVING SPOUSE SPECIAL DEATH BENEFIT. (a) A person who is the spouse of a Group A primary party, who is a qualified survivor, and who is entitled to death benefits under Sections 6.06, 6.061, 6.062, 6.063, and 6.07 of this article is also entitled to a special death benefit under this section if:

(1) the Group A primary party:

(A) had at least 20 years of pension service, left active service after October 1, 1985, and was at least 55 years of age on the earlier of the date the primary party:

(i) left active service; or

(ii) began participation in DROP; or

(B) had at least 20 years of pension service, left active service on or after May 31, 2000, and on the earlier of the date the primary party left active service or began participation in DROP, had a total of at least 78 credits, with each year of pension

service, prorated for fractional years, equal to one credit and with each year of age, prorated for fractional years, equal to one credit; or

(2) the spouse has attained 55 years of age and there are no children who are qualified survivors eligible for death benefits.

(b) Until the requirements of Subsection (a) of this section are satisfied, a qualified survivor who is the spouse of a Group A primary party shall receive a Group A death benefit in accordance with Section 6.07 of this article.

(c) The special Group A death benefit under Subsection (a) of this section is calculated based on the following formula:

$$(P \times P \times A) + (P \times C) + D, \text{ where}$$

A = base pay at the time the Group A primary party began participation in DROP, begins service retirement, dies, or becomes disabled, plus longevity pay, plus one-twelfth of last-received city service incentive pay;

B = Group A primary party's benefit calculated at the time the Group A primary party began participation in DROP, begins service retirement, dies, or becomes disabled;

P = B/A (expressed as a percentage or a decimal);

C = the number of adjustments made to a Group A primary party's retirement pension, disability pension, or periodic disability compensation, multiplied by the amount of the adjustments; and

D = the number of adjustments made under this article to the Group A death benefit of a spouse who is a qualified survivor under Section 6.07 of this article, multiplied by the amount of the adjustments.

(d) A person who is the spouse of a Group B primary party, who is a qualified survivor, and who is entitled to any death benefits under Sections 6.06, 6.061, 6.062, 6.063, and 6.08 of this article is also entitled to a special benefit under this section if:

(1) the Group B primary party:

(A) had at least 20 years of pension service, left active service after October 1, 1985, and was at least 55 years of age at the earlier of the date the primary party left active service or began participation in DROP; or

(B) on or after May 31, 2000, left active service or began participation in DROP, whichever was earlier, having a total of at least 78 credits, with each year of pension service, prorated for fractional years, equal to one credit and with each year of age,

determined at the time the Group B primary party left active service or began participation in DROP, prorated for fractional years, equal to one credit; or

(2) the spouse has attained 55 years of age, and there are no children of the primary party who are qualified survivors.

(d-1) Until the requirements of Subsection (d) of this section are satisfied, a spouse who is a qualified survivor may only receive a Group B death benefit in accordance with Sections 6.06, 6.061, 6.062, 6.063, and 6.08 of this article.

(e) The special Group B death benefit under Subsection (d) of this section is calculated based on the following formula:

$$(P \times P \times A) + (P \times C) + D, \text{ where}$$

A = average monthly computation pay at the time the Group B primary party begins service retirement, dies, becomes disabled, or begins participation in DROP;

B = the Group B primary party's benefit calculated at the time the Group B primary party begins participation in DROP, begins to receive service retirement, dies, or becomes disabled;

P = B/A (expressed as a percentage or a decimal);

C = the number of post-retirement adjustments made to a Group B primary party's retirement pension, disability pension, or periodic disability compensation multiplied by the amount of the adjustments; and

D = the number of adjustments made to the Group B death benefit of a qualified survivor who is the primary party's spouse under Section 6.08 of this article multiplied by the amount of the adjustments.

Sec. 6.10A. MINIMUM BENEFITS TO CERTAIN GROUP A PRIMARY PARTIES WHO WERE GROUP A, OLD PLAN, OR COMBINED PENSION PLAN MEMBERS AND THEIR QUALIFIED SURVIVORS. (a) Except as provided by Section 6.063 of this article or Subsections (b) and (h) of this section and notwithstanding any benefit computation and determination to the contrary contained in this article, the minimum Group A benefits provided by this section shall be paid to any Group A primary party who elects to receive a Group A retirement pension under Sections 6.01(b) and (c) of this article, the old plan, or former Section 14(a) of this article, or to the primary party's qualified survivors, except that a Group A primary party who elects to receive an actuarially reduced retirement pension before 50 years of age and the primary party's qualified survivors are not entitled to the minimum

benefits specified under this section. An alternate payee is not entitled to the Group A minimum benefits specified in this section.

(b) A Group A primary party who elects to receive a Group A retirement pension under Sections 6.01(b) and (c) of this article, the old plan, or former Section 14(a) of this article and who left active service with 20 or more years of pension service is entitled to receive a minimum Group A retirement pension of $2,200 a month.

(c) In the absence of children who are qualified survivors, a spouse who is a qualified survivor of a Group A primary party who elected to receive a Group A retirement pension under Sections 6.01(b) and (c) of this article, the old plan, or former Section 14(a) of this article will receive a minimum monthly Group A death benefit of $1,200.

(d) A spouse who is a qualified survivor of a Group A primary party who elected to receive a Group A retirement pension under Sections 6.01(b) and (c) of this article, the old plan, or former Section 14(a) of this article will receive, if there are children who are qualified survivors, a minimum Group A death benefit of $1,100 a month.

(e) In the absence of a spouse who is a qualified survivor of a Group A primary party who elected to receive a Group A retirement pension under Section 6.01(b), (c), or (e) of this article, the old plan, or former Section 14(a) of this article, the primary party's children who are qualified survivors, as a group, will receive a minimum Group A death benefit of $1,100 a month, to be divided equally among them.

(f) If there is neither a spouse nor a child who is a qualified survivor of a Group A primary party who elected to receive a Group A retirement pension under Sections 6.01(b) and (c) of this article, the old plan, or former Section 14(a) of this article, each dependent parent who is a qualified survivor will receive a minimum Group A death benefit of $1,100 a month. If only one of them is surviving, that dependent parent will receive a minimum Group A death benefit equal to $1,100 a month.

(g) Notwithstanding the minimum monthly benefit described in other subsections of this section, a Group A primary party who receives periodic disability compensation under Section 6.05(b) of this article or a Group A disability pension under Section 6.04(a) of this article, the old plan, or former Section 17(a) of this article, shall receive a minimum Group A disability pension equal to $2,200 a

month.

(h) If a Group A pensioner who received a monthly benefit under Section 6.05(b-1) of this article or a disability pension under Section 6.04(a) of this article, calculated in the same manner as a Group A retirement pension under Sections 6.01(b) and (c) of this article, the old plan, or former Section 17(a) of this article before the completion of 20 years of pension service dies, the qualified survivors will receive a minimum Group A death benefit as provided under Subsection (c), (d), (e), or (f) of this section, as applicable, whichever is greatest.

Sec. 6.10B MINIMUM BENEFITS TO CERTAIN GROUP A PRIMARY PARTIES WHO WERE GROUP A, PLAN A, OR COMBINED PLAN MEMBERS AND THEIR QUALIFIED SURVIVORS. (a) Except as provided by Section 6.063 of this article and Subsection (b) of this section and notwithstanding any benefit computation and determination to the contrary contained in this article, the minimum Group A benefits provided by this section shall be paid to any Group A primary party who elects to receive a Group A retirement pension under Section 6.01(e) of this article, Plan A, or former Section 14(b) of this article or to the primary party's qualified survivors, except that a Group A primary party who elects to receive an actuarially reduced Group A retirement pension before 55 years of age and the primary party's qualified survivors are not entitled to the minimum benefits specified in this section. An alternate payee is not entitled to the Group A minimum benefits specified in this section.

(b) A Group A primary party who elects to receive a Group A retirement pension under Section 6.01(e) of this article, Plan A, or former Section 14(b) of this article and who left active service with 20 or more years of pension service is entitled to receive a minimum retirement pension equal to the greater of $2,200 a month or $1,000 a month adjusted, if applicable, in the manner described by Section 6.12 of this article.

(c) In the absence of children who are qualified survivors, a spouse who is a qualified survivor of a Group A primary party who elects to receive a Group A retirement pension under Section 6.01(e) of this article, Plan A, or former Section 14(b) of this article will receive a minimum monthly death benefit equal to the greater of $1,200 a month or $500 a month adjusted, if applicable, in the manner described by Section 6.12 of this article.

(d) A spouse who is a qualified survivor of a Group A primary

party who elects to receive a Group A retirement pension under Section 6.01(e) of this article, Plan A, or former Section 14(b) of this article will receive, if there are children who are qualified survivors, a minimum Group A death benefit equal to the greater of $1,100 a month or $500 a month adjusted, if applicable, in the manner described by Section 6.12 of this article. The children who are qualified survivors, as a group, will receive a minimum death benefit equal to the greater of $1,100 a month or $500 a month adjusted, if applicable, in the manner described by Section 6.12 of this article, to be divided equally among them.

(e) In the absence of a spouse who is a qualified survivor of a Group A primary party who elected to receive a Group A retirement pension under Section 6.01(e) of this article, Plan A, or former Section 14(b) of this article, the primary party's children who are qualified survivors, as a group, will receive a minimum Group A death benefit equal to the greater of $1,100 a month or $500 a month adjusted, if applicable, in the manner described by Section 6.12 of this article, to be divided equally among them.

(f) If there is neither a spouse nor child who is a qualified survivor of a Group A primary party who elected to receive a Group A retirement pension under Section 6.01(e) of this article, Plan A, or the former Section 14(b) of this article, each dependent parent who is a qualified survivor will receive a minimum Group A death benefit equal to the greater of $1,100 a month or $500 a month adjusted, if applicable, in the manner described by Section 6.12 of this article. If only one of them is surviving, that dependent parent will receive a minimum Group A death benefit equal to the greater of $1,100 a month or $500 a month adjusted, if applicable, in the manner described by Section 6.12 of this article.

(g) Notwithstanding the minimum monthly benefit as described in other subsections of this section, a Group A primary party who leaves active service on a non-service-connected disability under Section 6.04(a) of this article, Plan A, or former Section 17(b)(2) of this article with less than 20 years of pension service shall receive a minimum monthly Group A disability pension equal to the greater of $110 multiplied by the number of years of the primary party's pension service or $50 multiplied by the number of years of the primary party's pension service, the product adjusted, if applicable, in the manner described by Section 6.12 of this article.

(h) Repealed by Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158

), Sec. 1.52(5), eff. September 1, 2017.

(i) If a Group A pensioner who received a non-service-connected disability pension under Section 6.04(a) of this article, Plan A, or former Section 17(b)(2) of this article before the completion of 20 years of pension service dies, the qualified survivors will each receive the amount specified in Section 6.07 of this article or the minimum Group A death benefit as provided under Subsection (c), (d), (e), or (f) of this section, as applicable, whichever is greatest.

Sec. 6.11. MINIMUM BENEFITS TO GROUP B PRIMARY PARTIES AND THEIR QUALIFIED SURVIVORS. (a) Except as provided by Section 6.063 of this article or Subsections (b), (c), and (h) of this section and notwithstanding any benefit computation and determination to the contrary contained in this article, the minimum Group B benefits provided by this section shall be paid to any Group B primary party or the primary party's qualified survivors, except further that a Group B primary party who elects to receive an actuarially reduced retirement pension, including a request for a benefit under Sections 6.02(c) and (d) of this article, and the primary party's qualified survivors or alternate payee, are not entitled to the Group B minimum benefits specified by this section.

(b) If a Group B primary party leaves active service with 20 or more years of pension service, the Group B primary party is entitled to receive a Group B minimum retirement pension equal to the greater of $2,200 a month or $925 a month, which sum may (A) increase at the rate of $5 a month for each year of pension service beyond 20 years, but the increase may not exceed $75 and (B) be adjusted, if applicable, in the manner described by Section 6.12 of this article.

(c) If a Group B primary party leaves active service with less than 20 years of pension service, the primary party is entitled to receive a minimum monthly Group B retirement pension equal to the greater of:

(1) $2,200 a month divided by 20 and multiplied by the Group B primary party's number of years of pension service; or

(2) $925 a month divided by 20 and multiplied by the Group B primary party's number of years of pension service, which amount is then adjusted, if applicable, in the manner described by Section 6.12 of this article.

(d) In the absence of children who are qualified survivors, a spouse who is a qualified survivor of a Group B primary party will receive a minimum Group B death benefit equal to the greater of:

(1) $1,200 a month; or

(2) $600 a month adjusted, if applicable, in the manner described by Section 6.12 of this article.

(e) A spouse who is a qualified survivor of a Group B primary party, if there are children who are qualified survivors, will receive a minimum Group B death benefit of $1,100 a month.

(f) The children who are qualified survivors of a Group B primary party, as a group, will receive a minimum Group B death benefit equal to the greater of $1,100 a month or $600 a month adjusted, if applicable, in the manner described by Section 6.12 of this article, to be divided equally between them.

(g) If there is neither a spouse nor a child who is a qualified survivor, each dependent parent who is a qualified survivor of the deceased Group B primary party will receive a minimum death benefit of $1,100 a month.

(h) Notwithstanding the minimum monthly retirement pension otherwise described by this section, a Group B primary party who left active service on a non-service-connected disability with less than 20 years of pension service will receive a minimum monthly disability pension equal to the greater of $110 multiplied by the number of years of the primary party's pension service or $46.25 multiplied by the number of years of the primary party's pension service, the product adjusted in the manner, if applicable, described by Section 6.12 of this article. If a Group B primary party who was receiving a non-service-connected disability pension before the completion of 20 years pension service dies, the qualified survivors will receive the amount specified in Section 6.08 of this article, or the minimum monthly death benefits granted to qualified survivors as provided by Subsections (d), (e), (f), and (g) of this section, as applicable, whichever is greater.

Sec. 6.12. ADJUSTMENTS TO RETIREMENT AND DISABILITY PENSION BENEFITS. (a) This section applies to the following benefits provided under this article:

(1) a retirement pension calculated under Section 6.01(e) or 6.02 of this article;

(2) a disability pension calculated under Section 6.04 of this article, other than under Section 6.04(a) of this article;

(3) periodic disability compensation benefit underSection 6.05 of this article, other than Section 6.05(b-1) of this article; or

(4) a death benefit calculated under:

(A) Section 6.07 of this article, if calculated in the manner of a retirement pension under Section 6.01(e) of this article or in the manner of a disability compensation benefit under Section 6.05(b) of this article; or

(B) Section 6.08 of this article currently in pay status, or pending board approval on the last day of September.

(b) Except as provided by Subsection (d) of this section, annually on the first day of October, the pension system may increase the base pension of a benefit described by Subsection (a) of this section by a percentage equal to the average annual rate of actual investment return of the pension system for the five-year period ending on the December 31 preceding the effective date of the adjustment less five percent.

(c) An adjustment under this section may not be less than zero percent or exceed four percent of the applicable base pension benefit.

(d) The pension system may only make an adjustment to benefits under this section if the ratio of the amount of the pension system's market value of assets divided by the amount of the pension system's actuarial accrued liabilities, after giving effect to the adjustment, is not less than .70.

(e) For purposes of Subsection (d) of this section, the amount of the pension system's market value of assets and the amount of the pension system's actuarial accrued liabilities shall be based on and determined as of the date of the most recently completed actuarial valuation.

(f) The following persons may not receive an adjustment under this section:

(1) a member on active service, including a DROP participant;

(2) a pensioner until the first October 1 occurring after both the pensioner's retirement and the earlier of:

(A) the date the pensioner reaches 62 years of age; or

(B) the third anniversary of the date the pensioner retired; or

(3) a qualified survivor until the first October 1 occurring after the earlier of:

(A) the date the qualified survivor reaches 62 years of age;

(B) the third anniversary of the date the primary party retired; or

(C) the third anniversary of the date of the member's or pensioner's death.

(g) A retirement or disability pension or periodic disability compensation paid to any Group B pensioner may not be less than the Group B pensioner's base pension.

(h) The death benefit of the qualified survivors who are the spouse, dependent parent, or child of a Group B pensioner, as a group, may not be less than 50 percent of the pensioner's base pension.

Sec. 6.13. SUPPLEMENT TO CERTAIN RECIPIENTS 55 YEARS OF AGE OR OLDER. (a) Except as provided by Subsection (b) of this section, if a pensioner had at least 20 years of pension service under any plan adopted pursuant to Article 6243a or this article, or if a pensioner is receiving the periodic disability compensation benefit under Section 6.05 of this article, the pensioner, the pensioner's spouse who is a qualified survivor eligible to receive benefits under this article, or the pensioner's children who are qualified survivors, as a group, under Section 6.06 of this article are entitled to receive, when the pensioner or spouse who is a qualified survivor attains 55 years of age, provided the pensioner or spouse attains 55 years of age before September 1, 2017, a monthly supplement equal to the greater of $50 or three percent of their total monthly benefit and for months beginning on and after January 1, 1991, a monthly supplement equal to the greater of $75 or three percent of their total monthly benefit. For purposes only of calculating this supplement, the phrase "their total monthly benefit" means the amount payable to a pensioner or qualified survivors under the terms of the plans described by this section under which the pensioner or qualified survivor elected to receive benefits but does not include the supplement authorized by this section or any adjustments under Section 6.12 of this article made after September 1, 2017.

(b) A person described by Subsection (a) of this section who, on September 1, 2017, is not receiving or has not received a supplemental benefit under this section is not entitled to receive a supplemental benefit under this section.

Sec. 6.14. DEFERRED RETIREMENT OPTION PLAN. (a) A member who remains on active service after becoming eligible to receive a retirement pension under either Section 6.01 or 6.02 of this article

may become a participant in the deferred retirement option plan in accordance with Subsections (b) and (c) of this section, and defer the beginning of the person's retirement pension. Once an election to participate in the DROP has been made, the election continues in effect at least as long as the member remains in active service. On leaving active service, the member may:

(1) apply for a retirement pension under Sections 6.01(b) and (c), Section 6.01(e), or Section 6.02(b), (c), (d), or (e) of this article, whichever is applicable, together with any DROP benefit provided under this section; or

(2) continue to participate in DROP except the member is ineligible for disability benefits described by Subsection (g-1) of this section.

(b) The election to participate in the DROP shall be made in accordance with procedures set forth in any uniform and nondiscriminatory election form adopted by the board and in effect from time to time. To determine the proper amount to be credited to a member's DROP account, the election shall indicate whether the member desires to receive a retirement pension under Sections 6.01(b) and (c), Section 6.01(e), or Section 6.02(b), (c), (d), or (e) of this article, whichever is applicable. The election may be made at any time on or after the date the member becomes eligible for a retirement pension as provided by this subsection. The election becomes effective on the first day of the first month on or after the date on which the member makes the election, except that an election that would otherwise have been effective on October 1, 1993, and every October 1 after that date, is considered, for purposes of this section and Section 6.12 of this article, to be effective on September 30 of the year in which it would otherwise have been effective. On and after the effective date of the election, the member will no longer be eligible for any refund of contributions. The election by one or more members to participate in the DROP has no effect on the amount of city contributions to the fund under Section 4.02 of this article.

(c) Each month after a member has made an election to participate in the DROP and indicated a desire to receive a retirement pension under Sections 6.01(b) and (c), Section 6.01(e), or Section 6.02(b), (c), (d), or (e) of this article, whichever is applicable, and through the month before the month in which the member leaves active service, an amount equal to the retirement

pension the member would have received under the applicable subsection for that month if the member had left active service and been granted a retirement pension by the board on the effective date of DROP participation shall be credited to a separate DROP account maintained within the fund for the benefit of the member. Amounts held in the DROP account of a member shall be credited at the end of each calendar month. Notwithstanding this section, effective January 1, 2018, a member on active service who has 10 years or more of participation in DROP shall no longer have the amount of the member's retirement pension credited to the member's DROP account while the member is on active service.

(d) A member may not receive a distribution from the member's DROP account while the member is on active service.

(e) Except as provided by Subsections (e-1) and (l) of this section, the balance in the DROP account of a member who terminated from active service on or before September 1, 2017, or who terminates from active service shall be distributed to the member in the form of an annuity, payable either monthly or annually at the election of the member, by annuitizing the amount credited to the DROP account over the life expectancy of the member as of the date of the annuitization using mortality tables recommended by the pension system's qualified actuary. The annuity shall be distributed beginning as promptly as administratively feasible after the later of, as applicable:

(1) the date the member retires and is granted a retirement pension; or

(2) September 1, 2017.

(e-1) The board may adopt a shorter period for annuitizing DROP account balances under Subsection (e) of this section if the pension system's qualified actuary determines that the shorter period will not cause the pension system's amortization period to exceed 25 years.

(e-2) The annuitization of a DROP account under Subsection (e) of this section must reflect the accrual of interest on the amount in the DROP account as of September 1, 2017, over the annuitization period applied to the account under this section. The interest rate applied under this subsection must be a rate as reasonably equivalent as practicable to the interest rate on a note issued by the United States Department of the Treasury or other federal treasury note with a duration that is reasonably comparable to the annuitization period applied to the account, as determined by the board. The portion of

an annuity attributable to amounts credited to a member's DROP account on or after September 1, 2017, may not reflect the accrual of this interest on annuitization.

(e-3) The board may by rule allow a DROP participant who has terminated active service and who is eligible for a retirement pension to:

(1) assign the distribution from the participant's annuitized DROP account to a third party provided the pension system receives a favorable private letter ruling from the Internal Revenue Service ruling that such an assignment will not negatively impact the pension system's qualified plan status; and

(2) subject to Subsection (e-4) of this section, in the event of a financial hardship that was not reasonably foreseeable obtain a lump-sum distribution from the participant's DROP account resulting in a corresponding reduction in the total number or in the amount of annuity payments.

(e-4) The board shall adopt rules necessary to implement Subsection (e-3)(2) of this section, including rules regarding what constitutes a financial hardship for purposes of that subdivision. In adopting the rules, the board shall provide flexibility to members.

(f) The board may adopt rules and policies relating to the administration of Subsections (e), (e-1), and (e-2) of this section if the rules and policies are:

(1) consistent with the qualification of the plan under Section 401 of the code; and

(2) in the best interest of the pension system.

(f-1) The DROP account of a member who begins participating in DROP on or after September 1, 2017, does not accrue interest.

(g) The provisions of Sections 6.06, 6.061, 6.062, 6.063, 6.07, and 6.08 of this article pertaining to death benefits of a qualified survivor do not apply to amounts held in a member's or pensioner's DROP account. Instead, a member or pensioner who participates in DROP may designate a beneficiary to receive the annuity payments under this section over the remaining annuitization period in the event of the member's or pensioner's death subject to any rights provided under Subsection (e-3) of this section and in the manner allowed by Section 401(a)(9) of the code and any policy adopted by the board. A member or pensioner who is or becomes married is considered to have designated the member's or pensioner's spouse as

the member's or pensioner's beneficiary, notwithstanding any prior beneficiary designation, unless the member or pensioner has made a different designation in accordance with a policy adopted by the board. If a member or pensioner does not have a spouse or the spouse predeceases the member or pensioner, the member's or pensioner's, as applicable, DROP account will be distributed to the member's or pensioner's, as applicable, designee. Notwithstanding anything in this section to the contrary, if a member or pensioner has previously designated the member's or pensioner's spouse as the beneficiary or co-beneficiary of the DROP account and the member or pensioner and spouse are subsequently divorced, the divorce automatically results in the invalidation of the designation of the spouse as a beneficiary and, if there is no additional beneficiary designated, the member's or pensioner's DROP account shall be distributed as provided by Subsection (e) of this section. If there are beneficiaries who survive the deceased member or pensioner, the surviving beneficiaries share equally in that portion that would have otherwise been payable to the former spouse.

(g-1) A member who becomes a DROP participant is ineligible for any disability benefits described by Section 6.03, 6.04, or 6.05 of this article, but is entitled to a retirement pension in accordance with Sections 6.01(b) and (c), Section 6.01(e), or Section 6.02 of this article, whichever is applicable, on termination from active service, and is also entitled to receive annuity payments in accordance with Subsection (e) of this section.

(h) The base pay or computation pay, whichever is applicable, in effect as of the effective date of a member's participation in DROP shall be used in calculating the member's retirement pension under Section 6.01 or 6.02 of this article. A member who elects to participate in DROP does not accrue additional pension service for purposes of computing a retirement pension for any period after the effective date of the election.

(i) Repealed by Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.52(6), eff. September 1, 2017.

(j) Except as provided by Subsection (l) of this section, if a pensioner who has been a DROP participant returns to active service, the person must become a participant in DROP under the terms and conditions in effect at the time of return to active service.

(k) Repealed by Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.52(6), eff. September 1, 2017.

(l) Notwithstanding any other provision of this section and except as provided by Subsection (o) of this section, a member who has entered DROP before June 1, 2017, may revoke the DROP election at any time on or after September 1, 2017, and before the earlier of:

(1) February 28, 2018; or

(2) the member's termination of active service.

(m) If a member revokes participation in DROP under Subsection (l) of this section:

(1) the member's DROP account balance is eliminated; and

(2) the member shall receive pension service credited for all or a portion of the period of the revoked DROP participation on payment of the required contributions for the period of the revoked DROP participation in accordance with a uniform and nondiscriminatory procedure adopted by the board that results in the payment of the amount of member contributions that would have been made if the member had never participated in DROP.

(n) A member who revokes the member's DROP election under Subsection (l) of this section is entitled to only a monthly pension computed on the basis of the member's pension service, including pension service purchased under Subsection (m) of this section:

(1) that is based on the member's average computation pay at the time of leaving active service, if the member is a Group B member; or

(2) as provided by Section 6.01(b) of this article, if the member is a Group A member.

(o) A member may not revoke DROP participation under Subsection (l) of this section if any money has been transferred out of the member's DROP account.

Sec. 6.141. DEFERRED ANNUITIZATION OF CERTAIN DROP ACCOUNTS. (a) This section applies only to a pensioner who:

(1) before attaining 50 years of age:

(A) left active service; and

(B) was granted a service retirement pension under Section 6.01 or 6.02 of this article;

(2) since the pensioner's retirement has continued to receive substantially equal periodic payments, as determined under Section 72(t) of the code; and

(3) on September 1, 2017:

(A) is a DROP participant; and

(B) has not attained 59-1/2 years of age.

(b) Notwithstanding Section 6.14 of this article and solely to avoid the possibility of an early distribution tax penalty under Section 72(t)(4) of the code:

(1) a pensioner subject to this section may until the pensioner attains 59-1/2 years of age:

(A) subject to Subsection (c) of this section, continue to participate in DROP;

(B) have the same amount of the pensioner's service retirement pension credited to the pensioner's DROP account as has been credited since the pensioner's service retirement pension was initially granted; and

(C) defer annuitization of the pensioner's DROP account under Section 6.14(e) of this article; and

(2) once a pensioner subject to this section attains 59-1/2 years of age:

(A) the pensioner may not have any portion of the pensioner's service retirement pension credited to the pensioner's DROP account; and

(B) as soon as administratively feasible, the balance in the pensioner's DROP account shall be annuitized and distributed to the pensioner in accordance with Section 6.14(e) of this article.

(c) The DROP account of a pensioner who continues participation in DROP under Subsection (b)(1)(A) of this section does not accrue interest on and after September 1, 2017.

Sec. 6.15. MEDICAL EXAMINATION. (a) The board may require the following pensioners receiving a disability pension or a periodic disability compensation benefit to appear and undergo a medical examination by the health director or, if the health director approves, by any licensed medical practitioner, to determine if the pensioner's disability continues or has been removed to the extent that the pensioner is able to resume duties with the department:

(1) any Group A pensioner who has served less than 20 years;

(2) any Group A pensioner who elected a Group A disability pension under Section 6.04 of this article, periodic disability compensation under Section 6.05 of this article, or a non-service-connected disability pension under Plan A or former Section 17(b)(2) of this article, and who had more than 20 years of pension service, but is less than 55 years of age; and

(3) any Group B pensioner who was granted a Group B

disability pension under Section 6.04 of this article or periodic disability compensation under Section 6.05 of this article or a disability pension under the terms of Plan B and is less than 50 years of age.

(b) Any medical examination under this section is subject to the following conditions:

(1) Except as otherwise provided by this section, the board has complete discretion to require a pensioner to appear and undergo a medical examination as well as the time that may pass between examinations. When it becomes clear to the board from reliable medical evidence that the disability is unequivocally permanent and is not expected to diminish, the board may waive subsequent examinations.

(2) A pensioner may not be required to undergo a medical examination more often than once in a six-month period, except that the board may order the pensioner to undergo an examination at any time if the board has reason to believe the pensioner's disability has been removed and that the pensioner may be able to resume duties with the pensioner's former department or if the pensioner requests to be allowed to return to duty.

(3) If a pensioner fails to undergo an examination after being notified by the board that the examination is required, the board may discontinue disability benefits until the pensioner has undergone the examination and the results of the examination have been sent to the board.

(4) If the pensioner is examined by an approved outside medical practitioner other than the health director, the reasonable and customary cost of the examination, if any, is payable from the assets of the fund.

(c) After a pensioner has undergone a medical examination, the health director shall provide the board with a report of the pensioner's present medical condition together with the doctor's opinion as to whether the pensioner continues to be disabled or whether the pensioner is no longer disabled to the extent that the pensioner could resume duties with the pensioner's former department. The report and opinion may be divulged only to persons who have a legitimate need for them.

(d) If, in the opinion of the health director, the pensioner continues to be disabled, the board must continue payment of benefits. If, in the opinion of the health director, the pensioner

is no longer disabled, or is not so disabled that the pensioner could not perform some duties for the pensioner's former department, the board shall notify the department to determine if a position is available. If a position is available, the board shall notify the pensioner to return to duty. Disability benefits shall continue to be paid, however, until the pensioner returns to active service. However, if the pensioner refuses to return to duty or is refused employment by either department for reasons other than disability, the board shall order disability payments stopped. If a position is not available, the board must continue payments of the pensioner's disability pension.

(e) Pursuant to its authority under Section 6.06(o-2) of this article to review and modify any funding relating to the disability of a child who is a qualified survivor, the board may require the qualified survivor with a disability receiving death benefits to appear and undergo medical examination by the health director or, if the health director approves, by any licensed medical practitioner, to determine if the disability continues or if the disability has been removed.

Sec. 6.16. WAIVER OF BENEFITS. (a) A primary party, qualified survivor, or beneficiary of a member's DROP account may, on a form prescribed by the board and filed with the executive director, waive all or a portion of the benefits to which the person is or may be entitled. The waiver may state whether it is revocable or irrevocable, and is irrevocable unless the waiver clearly states it is revocable.

(b) The waiver described by Subsection (a) of this section applies only to benefits that become payable on or after the date the waiver is filed.

(b-1) Benefits waived by a revocable waiver are forfeited and the person making the waiver has no right, title, claim, or interest in the benefits.

(c) If two or more persons are or may be entitled to benefits under this article, the waiver described by Subsection (a) of this section must be executed by each person to become effective. The living parent or parents or legal guardian or guardians of a child must sign the waiver described by Subsection (a) of this section on behalf of the child.

Sec. 6.17. DENIAL OF BENEFITS: DEATH CAUSED BY SURVIVOR. A qualified survivor or beneficiary of a member's DROP account is not

eligible for, or entitled to, benefits if the person is the principal or an accomplice in wilfully bringing about the death of a primary party or another qualified survivor or beneficiary of a member's DROP account whose death would otherwise have resulted in a benefit or benefit increase to the person. The determination of the board that a person wilfully brought about the death must be made during a meeting of the board from a preponderance of the evidence presented and is not controlled by any other finding in any other forum, whether considered under the same or another degree of proof.

Sec. 6.18. INVESTIGATION. (a) The board shall consider all applications for retirement and disability pensions, all applications for death benefits, and all elections to participate in DROP. The board shall give notice to persons applying for benefits, advising them of their right to appear before the board and offer such sworn evidence as they may desire. Any person claiming retirement, disability, or DROP benefits may appear before the board and offer testimony that is relevant to a contested application for a retirement pension, a disability pension, death benefits, or DROP benefits. The chairman of the board may issue process for witnesses, administer oaths to witnesses, and examine any witness as to any matter affecting benefits under any plan within the pension system. Process for witnesses shall be served by any method of serving process permitted by the state law in any civil judicial proceeding. A witness who fails or refuses to attend and testify may be compelled to attend and testify, as in any judicial proceeding. The board may seek assistance from any court of competent jurisdiction to further compel or sanction a witness who fails or refuses to attend and testify.

(b) Any person who is aggrieved by a determination of the board regarding a retirement pension, a disability pension, death benefits, or DROP benefits may appeal the board determination to a state district court in the city where the pension system is located by giving written notice of appeal. The notice shall contain a statement of the grounds and reasons why the party feels aggrieved. The notice shall be served personally on the executive director within 20 days after the date of the board's determination. After service of the notice, the party appealing shall file with the state district court a copy of the notice of intention to appeal, together with an affidavit of the party making service showing how, when, and on whom the notice was served.

(c) Within 30 days after the date of service of the notice of appeal on the board, the executive director shall make up and file with the state district court a transcript of all nonprivileged papers and proceedings in the case before the board. When the copy of the notice of appeal and the transcript has been filed with the court, the appeal is perfected, and the court shall docket the appeal, assign the appeal a number, fix a date for hearing the appeal, and notify both the appellant and the board of the date fixed for the hearing.

(d) At any time before the rendering of its decision on appeal, the court may require further or additional proof or information, either documentary or under oath. On rendition of a decision on appeal, the court shall give to each party to the appeal a copy of the decision of the case. The decision of the court is appealable in the same manner as are civil cases generally.

(e) As provided by Section 4.01 of this article, the board shall approve all money used for investigations. The board may request the investigative services of either the police or fire departments in connection with any matter arising under this section.

Sec. 6.19. CERTIFICATE OF MEMBER PENSION BENEFIT ELIGIBILITY. When a member has earned five years of pension service, the member shall be issued an incontestable five-year certificate indicating that the member is entitled to pension benefits subject to the effect of any withdrawals as permitted under Article 6243a or this article. The certificate shall state that the calculation of the retirement pension to which the member is entitled, or any disability benefits to which the member may become entitled, shall be determined solely under the actual terms of the combined pension plan as in effect at the time the member leaves active service. The certificate shall further state that in the case of the member's death, the member's qualified survivors, if any, may become entitled to death benefits as determined solely under the actual terms of the combined pension plan as in effect at the time of the member's death. The certificate shall bear a seal and be signed by the executive director and chairman of the board.

Sec. 6.20. ERRONEOUS PAYMENTS OR OVERPAYMENTS. (a) If the pension system pays money to any person not entitled to the payment, whether by reason of an error of the pension system as to entitlement to or the amount of a benefit or otherwise, or an act or error of some other person, including the recipient of the payment, the

recipient of the payment holds the funds to which the recipient was not entitled in constructive trust for the pension system and those funds are subject to demand by the pension system at any time.

(b) The recipient of an erroneous payment from the pension system shall repay to the pension system all funds associated with the erroneous payment.

(c) Subject to Subsection (e) of this section, the board may by rule adopt a procedure to enable the pension system to offset the future benefit or other payments of a recipient described by this section. In addition, the board may take any additional action, including the bringing of a lawsuit, the board considers necessary to recover an erroneous payment the pension system is entitled to under this section.

(d) If the pension system determines that a person is entitled to additional benefits as a result of an error made by the pension system, the pension system shall promptly pay the additional benefits owed.

(e) The board's correction procedures must comply with the Internal Revenue Service's Employee Plans Compliance Resolution System and Revenue Procedure 2016-51, including subsequent guidance.

PART 6A. EQUITABLE ADJUSTMENTS

Sec. 6A.01. EQUITABLE ADJUSTMENTS TO BENEFITS. (a) Subject to this section and notwithstanding any other provision of this article, the board by at least a two-thirds vote of all trustees may consider and adopt rules requiring the equitable return of funds paid to or credited to the benefit of a member or pensioner under this article before September 1, 2017, to the extent the funds exceeded reasonable amounts that should be paid or credited given the circumstances of the pension system at the time the payment or credit was made, including the return of excessive interest credited to a member's DROP account and excessive adjustments made under Section 6.12 of this article.

(b) For purposes of Subsection (a) of this section, "reasonable amounts" includes the amounts that would have been paid or credited:

(1) if the interest rate applied in determining a benefit, including the interest rate applied to a DROP account, equaled the actual, audited rate of return of the plan at the time the interest was credited to the account; or

(2) if the percentage increase applied under Section 6.12 of this article equaled the percentage increase, if any, in the

Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) most recently published by the Bureau of Labor Statistics of the United States Department of Labor and used by the United States Social Security Administration to provide a cost-of-living adjustment for social security benefit payments payable beginning in January of the next year.

Sec. 6A.02. ADJUDICATION OF CERTAIN CHALLENGES. (a) The Texas Supreme Court has exclusive and original jurisdiction over a challenge to the constitutionality under the Texas Constitution of Section 6A.01 of this article. An action under this section is authorized to the full extent permitted by Section 3, Article V, Texas Constitution. The Texas Supreme Court may issue any injunctive, declaratory, or equitable relief the court deems appropriate or necessary to effectuate the court's mandamus jurisdiction in connection with a challenge under this section.

(b) Any action brought under this section must be filed not later than the 90th day after the date the board adopts a rule under Section 6A.01 of this article.

(c) If an action brought under this section is timely filed, the board may not enforce or otherwise administer any rules adopted pursuant to Section 6A.01 of this article during the pendency of the action.

PART 8. TREATMENT UNDER FEDERAL AND STATE LAW

Sec. 8.01. QUALIFICATION UNDER FEDERAL TAX LAW. (a) The plans within the pension system and the assets of the fund are intended to qualify as a governmental plan under Sections 401 and 414(d) of the code, be exempt from federal income taxes under Section 501(a) of the code, and conform at all times to applicable requirements of law, regulations, and orders of duly constituted federal governmental authorities. Accordingly, if any provision of this article is subject to more than one construction, one of which will permit the qualification of a plan that is within the pension system, that construction that will permit the plan to qualify and conform will prevail.

(b) The plans within the pension system as well as the assets of the fund shall be maintained for the exclusive benefit of members and their beneficiaries. At no time before the termination of all the plans within the pension system and the satisfaction of all liabilities with respect to members and their beneficiaries under all plans shall any part of the principal or interest from the assets of

the fund be used for or diverted to purposes other than the exclusive benefit of the members and beneficiaries.

(c) Notwithstanding any other provisions of this article, the annual benefit provided with respect to any member in any limitation year may not exceed the amount permitted by Section 415(b) of the code for the limitation year, and the sum of the member contributions and all other annual additions for any limitation year may not exceed the amount permitted under Section 415(c) of the code for the limitation year. If the aggregated annual benefit or aggregated annual additions under any qualified plans created under this article and any other defined benefit plan or plans maintained by the city would otherwise exceed the limitations of Section 415 of the code, the required reductions in benefits or contributions shall first be made to the extent possible from the other plan or plans. The limitations referenced in this subsection shall be adjusted annually in accordance with Section 415(d) of the code and any adjustment to benefits applies to the benefits of active and terminated members and applies without regard to whether a terminated member is a pensioner.

(c-1) Notwithstanding anything contained in this section to the contrary, the limitations, adjustments, and other requirements prescribed by this section shall at all times be computed in the manner most favorable to the affected members, to the extent permitted by guidelines issued by the Internal Revenue Service. If any provision of Section 415 of the code is repealed or is not enforced by the Internal Revenue Service, that provision may not reduce the benefits of any member after the effective date of the repeal of the provision or during the period in which the provision is not enforced.

(c-2) Any benefit reductions that are required to be made under this section shall be applied to reduce the monthly benefit that would otherwise have been payable to the member, unless the value of the member's DROP account accrued under Section 6.14 of this article exceeds the amount that may be paid under this section. If the value of the DROP account exceeds the value of the payments that may be made under this section, the member shall receive a lump-sum payment from the account of the maximum amount that may be paid under this section and the payment shall permanently reduce the benefits the member would otherwise have been entitled to receive under the combined pension plan.

(d) A member's retirement pension may not begin later than

April 1 of the year after the later of the year in which the member leaves active service or the year in which the member attains age 70-1/2 and must at all times comply with the requirements of Section 401(a)(9) of the code.

(e) Any person who receives any distribution from any plan within the pension system that is an eligible rollover distribution as defined by Section 402(f)(2)(A) of the code is entitled to have that distribution transferred directly to another eligible retirement plan as defined by Section 402(c)(8)(B) of the code of the person's choice on providing direction regarding that transfer to the executive director in accordance with procedures established by the executive director.

(e-1) If an eligible rollover distribution described by Subsection (e) of this section is to a designated beneficiary who is not the spouse or former spouse of the member, the transfer may only be to an individual retirement account or an individual retirement annuity.

(f) For the 2017 calendar year, the annual compensation taken into account for any purpose under the combined pension plan may not exceed $400,000 for an eligible participant or $270,000 for an ineligible participant. For a Group A member the term "annual compensation" means the aggregate of the member's base pay. For a Group B member the term "annual compensation" means the aggregate of the member's computation pay for any given plan year. These dollar limits shall be adjusted from time to time in accordance with guidelines provided by the secretary of the treasury. For purposes of this subsection, an:

(1) "eligible participant" means any person who first became a member of the pension system before January 1, 1996; and

(2) "ineligible participant" means any member who is not an eligible participant.

(g) For purposes of Subsection (h) of this section, "normal retirement age" means the earlier of:

(1) the attainment of 50 years of age on or before September 1, 2017, and completion of at least five years of pension service;

(2) the attainment of 58 years of age after September 1, 2017, and completion of at least five years of pension service; or

(3) completion of 20 years of pension service.

(h) The retirement benefit earned by a member is

nonforfeitable:

(1) on attainment of normal retirement age, if not already nonforfeitable; or

(2) to the extent the benefit is funded, if not already nonforfeitable, on the termination or partial termination of the combined pension plan or the complete discontinuance of city contributions to the fund.

(i) In accordance with Section 401(a)(8) of the code, forfeitures arising under the combined pension plan may not be used to increase the benefits any member would otherwise receive under the terms of the plan. Forfeitures may be used first to reduce administrative expenses, then to reduce required city contributions.

(j) Subject to procedures adopted by the board, the pension system shall accept an eligible rollover distribution from another eligible retirement plan as defined by Section 402(f)(2)(B) of the code as payment of all or a portion of any payment a member is permitted to make to the pension system for past pension service credit. The pension system shall separately account for any after-tax contributions transferred from any plan under this subsection.

Sec. 8.02. EXCESS BENEFIT PLAN FOR POLICE OFFICERS AND FIRE FIGHTERS. The board may by rule establish and administer a separate qualified governmental excess benefit arrangement and associated trust for the arrangement in accordance with Section 415(m) of the code.

Sec. 8.03. EXEMPTION OF BENEFITS FROM JUDICIAL PROCESS OR ALIENATION. (a) A portion of the fund or benefit or amount awarded to any primary party, qualified survivor, beneficiary of a member's DROP account, excess benefit participant, or survivor of an excess benefit participant under this article may not be held, seized, taken, subjected to, or detained or levied on by virtue of any execution, attachment, garnishment, injunction, or other writ, order, or decree, or any process or proceedings issued from or by any court for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demands, or judgment against any person entitled to benefits from any plan within the pension system or from the excess benefit plan. The fund and the excess benefit plan or any claim against the fund or the excess benefit plan may not be directly or indirectly assigned or transferred, and any attempt to transfer or assign the fund or the excess benefit plan or a claim against the fund or the excess benefit plan is void.

(b) A benefit under any plan created or existing pursuant to this article or Article 6243a is subject to division pursuant to the terms of a qualified domestic relations order. The executive director shall determine the qualifications of a domestic relations order according to a uniform, consistent procedure approved by the board. The total benefit payable to a primary party or to an alternate payee under a qualified domestic relations order may not actuarially exceed the benefits to which a primary party would be entitled in the absence of the qualified domestic relations order. In calculating the alternate payee's benefits under a qualified domestic relations order, the interest rate is the rate used by the pension system's actuary in the actuarial evaluation for that year, except that the minimum interest rate for this purpose is the minimum required by Section 414 of the code.

(c) This section does not preclude:

(1) the payment of death benefits to a trust for certain children of a primary party pursuant to Section 6.06(n) of this article;

(2) the withholding of federal taxes from pension benefits;

(3) the recovery by the board of overpayments of benefits previously made to any person;

(4) the direct deposit of benefit payments to an account in a bank, savings and loan association, credit union, or other financial institution, provided the arrangement is not an alienation;

(5) under any policy adopted by the board and uniformly applied to voluntary arrangements entered into by a primary party or qualified survivor, any voluntary and revocable arrangement entered into by a pensioner or a qualified survivor that permits the withholding and direct payment of health care or life insurance premiums or similar payments from the monthly benefit payments; or

(6) an assignment of the distribution from an annuitized DROP account to a third party under Section 6.14(e-3)(1) of this article.

(d) For purposes of Subsection (c) of this section, an attachment, garnishment, levy, execution, or other legal process is not considered a voluntary arrangement.

Added by Acts 1989, 71st Leg., ch. 553, Sec. 1, eff. June 14, 1989. Amended by Acts 1993, 73rd Leg., ch. 872, Sec. 1, eff. Aug. 30, 1993; Acts 2001, 77th Leg., ch. 669, Sec. 164, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 190, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.01, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.02, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.03, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.04, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.05, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.06, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.07, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.08, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.09, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.10, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.11, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.12, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.13, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.14, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.15, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.16, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.17, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.18, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.19, eff.

September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.20, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.21, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.22, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.23, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.24, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.25, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.26, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.27, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.28, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.29, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.30, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.31, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.32, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.33, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.34, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.35, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.36, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.37, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.38, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.39, eff.

September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.40, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.41, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.42, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.43, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.44, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.45, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.46, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.47, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.48, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.49, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.50, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.52(7), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.52(1), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.52(2), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.52(3), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.52(4), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.52(5), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.52(6), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 2.01, eff. May 31, 2017.

Art. 6243b. FIREMEN AND POLICEMEN PENSION FUND IN CITIES OF 500,000 TO 600,000.

Sec. 1. BOARD OF TRUSTEES. (a) In all incorporated cities and towns containing more than 600,000 inhabitants and less than 700,000 inhabitants, having a fully or partially paid fire department, three (3) citizens of said city or town to be designated by the mayor, two (2) citizens of said city or town to be designated by the city manager of said city or town, three (3) policemen to be elected by members of the policemen's pension fund, and three (3) firemen to be elected by members of the firemen's pension fund, composing eleven (11) members, seven (7) of which shall be a quorum, shall constitute a board of trustees of the Firemen and Policemen Pension Fund, to provide for the disbursement of the same and to designate the beneficiaries thereof. The board shall be known as the Board of Firemen and Policemen Pension Fund, _____, Texas. Said board shall organize by choosing one member as Chairman and by appointing a secretary. Such board shall have charge of and administer said fund and shall order payments therefrom in pursuance of the provisions of this law. It shall report annually to the governing body of such city or town the condition of the said fund and the receipts and disbursements on account of the same with a complete list of beneficiaries of said fund and the amounts paid them.

(b) The members of the board of trustees serve four-year terms.

(c) The board of trustees shall provide by rule for election of its elected members by secret ballot.

(d) The board of trustees may purchase from an insurer licensed to do business in this state one (1) or more insurance policies that provide for the reimbursement of a member, officer, or employee of the board for liability imposed as damages caused by, and for costs and expenses incurred by the individual in defense of, an alleged act, error, or omission committed in the individual's capacity as fiduciary or co-fiduciary of assets of the pension fund. The board of trustees may not purchase an insurance policy that provides for the reimbursement of a member, officer, or employee of the board for liability imposed or costs and expenses incurred because of the member's, officer's, or employee's personal dishonesty, fraudulent breach of trust, lack of good faith, intentional fraud or deception, or intentional failure to act prudently. The board of trustees shall use money in the pension fund to purchase an insurance policy under

this subsection.

(e)(1) If an insurance policy described by Subsection (d) of this section is unavailable, insufficient, inadequate, or otherwise not in effect, the board of trustees may indemnify a member, officer, or employee of the board for liability imposed as damages caused by, and for reasonable costs and expenses incurred by the individual in defense of, an alleged act, error, or omission committed in the individual's fiduciary or co-fiduciary capacity. The board of trustees may not indemnify a member, officer, or employee of the board for liability imposed or costs and expenses incurred because of the member's, officer's, or employee's personal dishonesty, fraudulent breach of trust, lack of good faith, intentional fraud or deception, or intentional failure to act prudently.

(2) A determination of indemnification under this subsection must be made by a majority of the board of trustees. If a proposed indemnification is of a board member, the member may not vote on the matter.

(3) The board of trustees may adopt a policy establishing a method for presentation, approval, and payment of claims for indemnification under this subsection.

Sec. 1A. DEFINITIONS. In this Act:

(1) "Board of Trustees" or "Board" means the Board of Trustees of the Firemen and Policemen Pension Fund.

(2) "Member" means a duly appointed and enrolled policeman or fireman of a city covered by this Act who is a contributing member of the pension fund.

(3) "Pension Fund" or "Fund" means the Firemen and Policemen Pension Fund.

(4) "Salary" means base pay plus longevity pay received by a member from the city for personal services rendered as a policeman or fireman excluding all other forms of compensation.

(5) "Wages" means salary, longevity, and overtime pay received by a member from the city for personal services rendered as a policeman or fireman excluding all other compensation.

Sec. 2. PARTICIPATION IN FUND; WAGE DEDUCTIONS. Each member fireman and policeman in the employment of such city or town must participate in said fund, except in times of national emergency those persons as are employed during that time shall not be required to participate in the fund, and said city or town shall be authorized to deduct a sum of not less than one per cent (1%) nor in excess of six

per cent (6%) of his wages from each month to form a part of the fund known as the Firemen and Policemen Pension Fund, except that the city or town shall deduct a sum less than one per cent (1%) or more than six per cent (6%) of the member's wages each month to form a part of the fund if the board of trustees of that fund increases or decreases the percentage of wages to be contributed to the fund under the provisions of Section 10A or 14A of this Act. The amount to be deducted from the wages of those named above who must participate in the fund is to be determined by the board of trustees as provided for in Section 1 of this Act within the minimum and maximum deductions herein provided or as otherwise provided under the provisions of Section 10A or 14A of this Act.

Sec. 3. PAYMENTS TO FUND. There shall be deducted for such fund from the wages of each fireman and policeman a sum to be determined by the board of trustees under the provisions of Sections 2, 10A, and 14A of this Act. Any donations made to such fund and rewards received by any member of either of said funds, and all funds received from any source for such fund shall be deposited in like manner to the credit of such fund.

Sec. 4. CONDUCT OF MEETINGS. The board shall hold regular monthly meetings and other meetings upon call of its chairman. It shall issue orders signed by the president or chairman and secretary to the persons entitled thereto, of the amount of money ordered paid to such persons from such fund by said board which order shall state for what purpose such payment is to be made; it shall keep a record of its proceedings, which record shall be a public record; it shall at each monthly meeting send to the city treasurer a written list of persons entitled to payment from the fund, stating the amount of such payment, and for what granted, which list shall be certified to and signed by the president or chairman and secretary of such board, attested under oath. The treasurer shall enter a copy of said list upon the book to be kept for that purpose, which book shall be known as the "Record of the Firemen and Policemen Pension Fund Board," of _____, Texas, and the said board shall direct payments of the amounts named therein to the persons entitled thereto out of said fund. No money of said fund shall be disbursed for any purpose without a vote of a majority of the board, which shall be a no and yes vote entered upon the proceedings of the board.

Sec. 5. CUSTODY OF FUND. The treasurer of said city or town shall be ex-officio treasurer of said fund. All money for said fund

shall be paid over to and received by the treasurer for the use of said fund, and the duties thus imposed upon such treasurer shall be additional duties for which he shall be liable under his oath and bond as such city or town treasurer, but he shall receive no compensation therefor.

Sec. 6. MEMBERSHIP IN PENSION FUND; ELIGIBILITY. (a) Any person who has been duly appointed and enrolled as a policeman or fireman of any city covered by this Act shall automatically become a member of the pension fund of such city upon expiration of ninety (90) days from date such city comes within the provisions of this Act, provided such person at the time of such appointment was not less than eighteen (18) years of age and not more than twenty-nine (29) years of age and except as provided under Section 10A of this Act. In all instances where a person is already a member of and contributor to such pension fund, he shall retain and be entitled to all rights and privileges due him by virtue of having been such a member and contributor.

(b) Any person not a member of the pension fund when this Act becomes effective, who thereafter is duly appointed and enrolled as a fireman or policeman of such city shall automatically become a member of the pension system as a condition of his employment provided such person at the time of such appointment was not less than eighteen (18) years of age and not more than twenty-nine (29) years of age and except as provided under Section 10A of this Act.

Sec. 7. RETIREMENT PENSIONS. Whenever any member of said departments who shall have contributed a portion of his wages, as provided herein, shall have served twenty-five (25) years or more in either of said departments and shall have attained the age of fifty (50) years, he shall be entitled to be retired from said service upon application, and shall be entitled to be paid from said fund a monthly pension of one-half (1/2) of the salary received by him at the time of his retirement subject to change under the provisions of Section 10A of this Act.

Sec. 8. DISABILITY PENSIONS. Whenever any member of the fire department or police department of any such city or town, and who is a contributor to said fund as provided, shall become so permanently disabled through injury received, or disease contracted, in the line of duty, as to incapacitate him for the performance of duty, or shall for any cause, through no fault of his own, become so permanently disabled as to incapacitate him for the performance of duty, and

shall make written application therefor approved by a majority of the board, he shall be retired from service and be entitled to receive from said fund one-half of the monthly salary received by him as a member of either of said departments, at the time he became so disabled, to be paid in regular monthly installments subject to change under the provisions of Section 10A of this Act.

Sec. 9. DEATH BENEFITS, WIDOWS, ETC. In the case of the death before or after retirement of any member of the fire department or police department of any city or town resulting from disease contracted or injury received while in the line of duty or from any other cause through no fault of his own and who at the time of his death or retirement was a contributor to said Fund, leaving a widow and no children, the widow shall be entitled to receive monthly from said Fund an amount not exceeding one-third of such monthly salary received by such member immediately preceding his retirement, and, if not retired before death, one-third of such monthly salary received by such member immediately preceding his death; and, if at the time of the death of such contributor, under the circumstances and conditions hereinabove set forth, such contributor leaves a child or children under sixteen (16) years of age and the wife of such contributor is dead or divorced from such contributor, the child or children under sixteen (16) years of age shall be entitled to receive monthly from said Fund an amount not exceeding one-third of such monthly salary received by such member immediately preceding his retirement, and, if not retired before death, one-third of such monthly salary received by such member immediately preceding his death, said sum so paid to be equally divided among said children under sixteen (16) years of age, if more than one; and if at the time of death of such contributor, under the conditions hereinabove set forth, such contributor leaves a widow and a child or children under sixteen (16) years of age, the widow shall be entitled to receive monthly from said Fund (for the joint benefit of herself and such child or children) an amount not exceeding one-half of the monthly salary received by such member immediately preceding his retirement, and if not retired before death, one-half of such monthly salary received by such member immediately preceding his death, said payments to be made until such child or all of said children, if more than one, as the case may be, shall reach sixteen (16) years of age, and after said child or all of said children, as the case may be, have reached the age of sixteen (16) years, then the widow shall be

entitled to receive monthly from said Fund (for her benefit) an amount not exceeding one-third of the monthly salary received by such member immediately preceding his retirement, and if not retired before death, one-third of such monthly salary received by such member immediately preceding his death. In no case shall the amount paid to any one family exceed monthly the amount of one-half of the monthly salary earned by the deceased immediately prior to the time of his retirement, or, if not retired, prior to the time of his death. On the remarriage of any widow, such pension paid to her for her benefit shall cease and in the event that there are child or children under sixteen (16) years of age at the time of said remarriage, one-third of the monthly salary received by such member immediately preceding his retirement, and if not retired before death, immediately preceding his death, shall be paid monthly to the widow for the sole benefit of the child or children under the age of sixteen (16) years; provided, however, that the Pension Board, if it finds that said payments to the widow are not being used for the benefit of said child or children, may order said monthly benefits paid to said child or children instead of to said widow who has remarried. Where there is more than one child of such contributor, the benefits herein provided for shall be equally divided among the children, and upon the marriage or death of any child receiving such pension, or upon any child receiving such pension reaching sixteen (16) years of age, such pension payment for the benefit of said child shall cease, and if there remains a child or children under sixteen (16) years of age, the share of the said child so married or dead or reaching sixteen (16) years of age, shall be paid for the benefit of the remaining child or children under sixteen (16) years of age. In the event that a contributor leaves a widow and child or children under sixteen (16) years of age who are not the children of said widow, the Pension Board may, in its discretion, either pay monthly to the widow for the benefit of herself and said child or children, an amount not exceeding one-half of the monthly salary received by such member immediately preceding his retirement, or immediately preceding his death, if not retired before death, as hereinabove provided, or said Board may order one-fourth of said monthly salary received by such member paid to the widow and one-fourth of said monthly salary paid to said child or children. No widow or child of any such member resulting from any marriage contracted subsequent to the date of retirement of said member shall be entitled to a pension

under this law; provided, however, that the provisions of this Section shall not be construed so as to change any pension now being paid any pensioner under the provisions of this Act. The provisions of this section are subject to change under the provisions of Section 10A of this Act.

Sec. 10. DEATH BENEFITS, FATHER, ETC. If any member of the fire department or police department dies from injuries received or disease contracted while in the line of duty, or from any cause through no fault of his own, who was a contributor to said fund and entitled to participate in said fund himself, leaves no wife or child, but who shall leave surviving him a dependent father, mother, brother, or sister, wholly dependent upon said person for support, such dependent father, mother, sister and brother shall be entitled to receive in the aggregate one-half of the salary earned by said deceased immediately prior to his death, to be equally divided between those who are wholly dependent on said deceased, so long as they are wholly dependent. The board shall have authority to determine the facts as to the dependency of said parties and each of them, as to how long the same exists, and may at any time upon the request of any contributor to such fund, reopen any award made to any of said parties and discontinue such pension as to all or any of them as it may deem proper, and the findings of said board in regard to such matter and as to all pensions granted under this law shall be final upon all parties seeking a pension as a dependent of said deceased, or otherwise, until such award of the trustees shall have been set aside or revoked. The provisions of this section are subject to change under the provisions of Section 10A of this Act.

Sec. 10A. MODIFICATION OF BENEFITS, MEMBERSHIP QUALIFICATIONS, ELIGIBILITY REQUIREMENTS AND CONTRIBUTIONS; CONDITIONS. (a) Notwithstanding anything to the contrary in other parts of this Act and subject to Subsections (b) and (c) of this section, the Board of Trustees may, by majority vote of the whole board, make from time to time one or more of the following changes, or modifications:

(1) modify or change prospectively or retroactively in any manner whatsoever any of the benefits provided by this Act, except that any retroactive change or modification shall only increase pensions or benefits;

(2) modify or change prospectively in any manner whatsoever any of the membership qualifications;

(3) modify or change prospectively or retroactively in any

manner whatsoever any of the eligibility requirements for pensions or benefits;

(4) increase or decrease prospectively the percentage of wages less than the one per cent (1%) minimum or above the six per cent (6%) maximum provided in Section 2 of this Act to be contributed to the fund; or

(5) provide prospectively for refunds, in whole or in part, and with or without interest, of contributions made to the fund by employees who leave the city service before qualifying for a pension.

(b) None of the changes made under Subsection (a) of this section may be made unless all of the following conditions are sequentially complied with:

(1) the change must be approved by a qualified actuary selected by a four-fifths vote of the Board; the actuary's approval must be based on an actuarial finding that the change is supported by the existing funding status of the fund; the actuary, if an individual, must be a Fellow of the Society of Actuaries or a Fellow of the Conference of Actuaries in Public Practice or a Member of the American Academy of Actuaries; the actuary, if an actuarial consulting firm, must be established in the business of providing actuarial consulting services to pension plans and have experienced personnel able to provide the requested services; the findings upon which the properly selected and qualified actuary's approval are based are not subject to judicial review;

(2) the change must be approved by a majority of all persons then making contributions to the fund as employees of a department to which the change would directly apply, voting by secret ballot at an election held after ten (10) days' notice given by posting at a prominent place in every station or substation of a department to which the change would directly apply and in the city hall;

(3) the changes, except changes made under the provisions of Subdivision (1), Subsection (a), of this section, shall apply only to active member employees who are members of the affected departments at the time the change becomes effective and those who enter the departments thereafter; and

(4) the changes shall not deprive any person, without his written consent, of any right to receive a pension or benefits which have already become vested and matured.

(c) If the Board of Trustees proposes to change benefits under

Subdivision (1), Subsection (a), of this section, the change is not effective until the change is finally approved in accordance with this subsection. The Board shall submit the change for approval by the city's or town's governing body. If disapproved by the governing body, or if the governing body fails to act within sixty (60) days of presentation to the governing body, the Board, by resolution passed by a majority of the whole Board, plus one, may require the city's or town's governing body to hold an election, as soon as practicable, for approval of the change by the qualified voters of the city or town. Any change proposed and subsequently approved by the voters under this subsection becomes effective as of the beginning of the city's or town's next fiscal year.

Sec. 11. INVESTIGATIONS. The board shall consider all cases for the retirement and pension of the members of the fire and police departments rendered necessary or expedient under the provisions of this law, and all applications for pensions by widows and the children and of dependent relatives, and the said trustees shall give written notice to persons asking a pension to appear before said board and offer such sworn evidence as he or they may desire. Any person who is a member of either of said departments and who is a contributor to said fund may appear either in person or by attorney and contest the application for participation in said fund by any person claiming to be entitled to participate therein, and may offer testimony in support of such contest. The president or chairman of said board shall have authority to issue process for witnesses and administer oaths to said witnesses and to examine any witness as to any matter affecting retirement or a pension under the provisions of this law. Such process for witness shall be served by any member of the police or fire department and upon the failure of any witness to attend and testify, he or she may be compelled to attend and testify, as in any judicial proceeding.

Sec. 12. MEDICAL EXAMINATION. Said board may cause any person receiving any pension under the provisions of this law, who has served less than twenty (20) years, to appear and undergo a medical examination, as a result of which the board shall determine whether the relief in said case shall be continued, increased, decreased or discontinued. If any person receiving relief under the provisions of this law, after due notice, fails to appear and undergo such examination, the board may reduce or entirely discontinue such relief.

Sec. 13. Repealed by Acts 1973, 63rd Leg., p. 817, ch. 368, Sec. 5, eff. June 12, 1973.

Sec. 14. USE OF PUBLIC FUNDS. Except as provided by Section 14A of this Act, no funds shall be paid out of the public treasury of any such incorporated city or town, in carrying out any of the provisions of this law, except on a majority vote of the voters of such city or town, and where such funds have been voted on as provided by law, said city or town shall contribute such amount.

Sec. 14A. CONTRIBUTION INCREASES. (a) If at any time a qualified actuary that meets the requirements of Subdivision (1), Subsection (b), Section 10A of this Act, determines that the total contribution rate, expressed as a percentage of wages, is insufficient to amortize the unfunded actuarial accrued liability, as defined under the Governmental Accounting Standards Board Statement No. 25, over a 40-year period:

(1) the city's or town's governing body may increase the city or town contribution rate; and

(2) to the extent that the city or town contribution rate increases under Subdivision (1) of this subsection, the member contribution rate must increase by an amount equal to the member contribution rate before the increase multiplied by a fraction:

(A) the numerator of which is the increase in the amount of the city or town contribution rate; and

(B) the denominator of which is the amount of the city or town contribution rate before the increase.

(b) The sum of the city or town contribution rate and the member contribution rate after an increase under this section may not exceed the total contribution rate determined by the qualified actuary to be necessary to amortize the unfunded actuarial accrued liability over a forty (40) year period.

Sec. 14B. CONTRIBUTION DECREASES. (a) If at any time a qualified actuary that meets the requirements of Section 10A(b)(1) of this Act determines that the total contribution rate, expressed as a percentage of wages, is sufficient to amortize the unfunded actuarial accrued liability, as defined under the Governmental Accounting Standards Board Statement No. 25, over a 25-year period:

(1) the city's or town's governing body may decrease the city or town contribution rate; and

(2) to the extent that the city or town contribution rate decreases under Subdivision (1) of this subsection, the member

contribution rate must decrease by an amount equal to the member contribution rate before the decrease multiplied by a fraction:

(A) the numerator of which is the decrease in the amount of the city or town contribution rate; and

(B) the denominator of which is the amount of the city or town contribution rate before the decrease.

(b) The sum of the city or town contribution rate and the member contribution rate after a decrease under this section may not be less than the total contribution rate determined by the qualified actuary to be necessary to amortize the unfunded actuarial accrued liability over a 25-year period.

Sec. 15. AWARDS EXEMPT. No amount awarded to any person under the provisions of this law shall be liable for the debts of any such person; shall not be assignable and shall be exempt from garnishment or other legal process.

Sec. 16. SEPARATION OF FIREMEN'S AND POLICEMEN'S PENSION FUNDS IN CERTAIN CITIES. In any city or town subject to and operating under the Pension Law, the governing Body and Board of Trustees may, if it is deemed advisable and a majority of the members of said Fire Department or Police Department vote therefor, authorize and provide for the maintenance and administration of Pension Funds for each Department, said Funds to be the Policemen's Division of the Firemen and Policemen Pension Fund and the Firemen's Division of the Firemen and Policemen Pension Fund, to be kept independent of and apart from each other, and said Funds of each Department to consist of contributions by members of said Department, donations thereto and funds received from any source by said Department the purpose and effect of said division being to maintain the membership of and the payments into each Department separate, and to limit the rights of the members of each Department and their beneficiaries to the Pension Fund of their Department, and after the creation and establishment of a Firemen's Division of said Pension Fund and a Policemen's Division of said Pension Fund, the rights of Firemen shall be limited to the Firemen's Division of said Pension Fund, and the rights of Policemen and their beneficiaries shall be limited to the Policemen's Division of said Pension Fund. After a separation has been voted and approved, as above provided, the Board of Trustees shall apportion the existing Firemen and Policemen Pension Fund between the two (2) Funds on the basis of contributions made by the members of the respective Departments and donations or payments to said Departments,

and thereafter all payments to members or their beneficiaries of benefits, now accrued or hereafter accruing, shall be made from the Fund of their Department. Where a separation of funds is had, as hereinabove provided, the governing body of any city or town whose voters have authorized the payment of funds from the public treasury into the Firemen and Policemen Pension Fund is hereby authorized to pay to the Board of Trustees, for the use of the Pension Fund of each division above provided for, sums not to exceed in total the amount voted by the people to be paid into the single fund.

Sec. 17. VALIDATION OF PROCEEDINGS FOR SEPARATION OF PENSION FUNDS. All Acts and proceedings had and done by the governing body and Board of Trustees of the Pension Fund of any such city or town, subject to the above provisions, in creating, establishing, maintaining, and administering separate Pension Funds for Firemen and Policemen are hereby legalized, approved, and validated, as well as the division by said governing body and Board of Trustees of any public funds voted by the voters of said city or town for the Firemen and Policemen Pension Fund between said two (2) Funds, and said governing body and Board of Trustees shall continue the separate maintenance and administration of said Funds in the manner hereinabove provided. This section and Section 16 of this Act provide only for the separation of pension funds into policeman and fireman divisions and grant the governing body no power or authority granted to the Board of Trustees under any provision of this Act, and the Board of Trustees shall have exclusive charge of administration and maintenance of the fund.

Sec. 18. OPERATION OF FUND NOTWITHSTANDING CENSUS CHANGE. Any city which has heretofore established a firemen and policemen fund in accordance with Article 6243B of Vernon's Texas Civil Statutes or as amended, shall continue to operate such fund under the provisions of this Act. It is further provided that the fact that any future Federal Census may result in said city being above or below the population bracket herein specified shall not affect the validity of such fund and such fund shall continue to be operated pursuant hereto.

Acts 1933, 43rd Leg., 1st C.S., p. 279, ch. 101. Amended by Acts 1935, 44th Leg., p. 811, ch. 346, Sec. 1 to 4; Acts 1937, 45th Leg., p. 616, ch. 308, Sec. 1; Acts 1937, 45th Leg., p. 1335, ch. 495, Sec. 1, 2; Acts 1959, 56th Leg., p. 26, ch. 16, Sec. 1; Acts 1961,

57th Leg., p. 983, ch. 427, Sec. 1; Acts 1963, 58th Leg., p. 367, ch. 136, Sec. 1, eff. May 10, 1963; Acts 1969, 61st Leg., p. 2456, ch. 823, Sec. 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 1418, ch. 395, Sec. 1, 2, eff. May 26, 1971; Acts 1973, 63rd Leg., p. 815, ch. 368, Sec. 1 to 5, eff. June 12, 1973; Acts 1975, 64th Leg., p. 1372, ch. 526, Sec. 1, 2, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 590, ch. 237, Sec. 122, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 663, Sec. 1, eff. June 14, 1985; Acts 1991, 72nd Leg., ch. 597, Sec. 46, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 708, Sec. 1, 2, eff. Aug. 26, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 165, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1420 (H.B. 3355), Sec. 1.01, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1420 (H.B. 3355), Sec. 1.02, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1420 (H.B. 3355), Sec. 1.03, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1420 (H.B. 3355), Sec. 1.04, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1420 (H.B. 3355), Sec. 1.05, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 191, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 203 (S.B. 1133), Sec. 1, eff. May 24, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 203 (S.B. 1133), Sec. 2, eff. May 24, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 203 (S.B. 1133), Sec. 3, eff. May 24, 2013.

Art. 6243c. VALIDATING ELECTIONS FOR PENSIONS IN CITIES OF OVER 10,000.

Sec. 1. ELECTION AND PROCEEDINGS VALIDATED. That where a majority of the resident taxpayers being qualified electors of any city or town in this State having a population in excess of ten thousand (10,000) inhabitants, having voted at an election held in such city or town in favor of the expending of public funds by such

city or town in carrying out the provisions of Chapter 10, General Laws of the 36th Legislature, Regular Session, such election and all acts and proceedings had and done in connection therewith by the governing body of such city or town are hereby legalized, approved and validated and it is hereby declared that no further election shall be necessary for the expenditure of public funds to carry out the provisions of H.B. No. 30 and H.B. 31, of the First Called Session of the 43rd Legislature, but any election held under the provisions of Chapter 10, General Acts of the 36th Legislature, Regular Session, shall be and is hereby deemed to be sufficient to carry out the provisions of House Bill 30 and House Bill 31, of the First Called Session of the 43rd Legislature.

Sec. 2. VALIDATION OF ELECTIONS UNDER OTHER ACTS. Any other elections held in conformity with the provisions of Chapter 10, General Laws of the 36th Legislature, Regular Session, and adopting the provisions of said chapter are hereby legalized, approved and validated. Any funds now on hand and belonging to the Firemen and Policemen Fund shall remain a part of said fund and all warrants and vouchers heretofore issued are hereby legalized, approved and validated.

Sec. 3. VALIDATION OF PENSIONS PAID. All pensions heretofore paid by any city under the terms of Chapter 10, General Laws of the Thirty-sixth Legislature, Regular Session, including all pensions paid subsequent to the enactment of Senate Bill 139, Chapter 94, Acts of the 43rd Legislature, Regular Session, making said Act applicable only to certain cities and up to November 1, 1933, are hereby in all things expressly validated and legalized, and all persons to whom such pensions have been paid shall hereafter be deemed to be proper pensioners under the terms of H.B. No. 30 and H.B. 31, Acts of the First Called Session of the 43rd Legislature.

Sec. 4. PENSION ROLLS VALIDATED. All pensioners added to the pension rolls as pensioners under the terms of Chapter 10, General Laws of the Thirty-sixth Legislature, Regular Session, but subsequent to the enactment of Senate Bill No. 139, Chapter 94, Acts of the 43rd Legislature, Regular Session, making said Act applicable only to certain cities, shall hereafter be deemed proper and legal pensioners on the rolls of all cities wherein a pension system has been established under the terms of H.B. No. 30 and H.B. 31, Acts of the First Called Session of the 43rd Legislature.

Sec. 5. ELECTION IN CERTAIN CITIES UNNECESSARY. All cities

included in the population brackets of H.B. No. 30 and H.B. 31, Acts of the First Called Session of the 43rd Legislature, shall hereafter from the effective date of this Act be deemed to have a pension system without the necessity of any election or any action on the part of the City Council, and such City Council or Governing Board shall immediately provide adequate funds for the payment of pensions under the terms of H.B. No. 30 and H.B. 31 and the terms of this Act.

Acts 1933, 43rd Leg., 1st C.S., p. 89, ch. 30.

Art. 6243d. PENSIONS IN CITIES OF 290,000 OR OVER.

Sec. 1. In all incorporated cities and towns having a population of two hundred and ninety thousand (290,000) or more, according to the preceding Federal Census, the governing body of such city or town is hereby authorized to formulate and devise a pension plan for the benefit of all employees in the employment of such city or town. Before said pension plan as devised and formulated by the governing body of such city or town shall become effective, said entire pension plan shall be submitted in ordinance form by said governing body to the qualified electors of such city or town and be approved by said qualified electors at an election duly held. Said ordinance containing said pension plan when submitted to the qualified electors for approval, shall be so worded as to authorize the governing body of such city or town to either appropriate yearly out of the general revenue of such city or town a sufficient sum to carry out said pension plan, or to levy yearly a general ad valorem tax sufficient to provide for said pension plan, said sum to be appropriated yearly or to be raised by taxation, to be in addition to whatever sum, if any, to be contributed by the employees of such city or town to the pension fund of said pension plan.

Sec. 2. Any pension plan devised or formulated by any such city or town which provides that all employees participating therein shall contribute a portion of their weekly, monthly or yearly salary, shall not be compulsory for the employees of such city or town, but shall apply only to those employees of such city or town who signify their willingness in writing to participate therein, and to have deducted from their weekly, monthly or yearly salaries, the sum as specified in said pension plan.

Sec. 3. This Act shall not repeal Articles 6229 to 6243, both

numbers inclusive, of the Revised Civil Statutes of Texas, 1925, as amended by Acts of 1933, Forty-third Legislature, page 206, Chapter 94, but the provisions of said Articles 6229 to 6243, as amended, shall not apply whenever a city or town as provided in this Act shall formulate, devise and adopt a pension plan according to the terms and provisions of this Act.

Acts 1935, 44th Leg., p. 728, ch. 317.

Art. 6243d-1. POLICEMEN'S RELIEF AND RETIREMENT FUND.

Sec. 1. CREATION OF FUND; DEFINITIONS. There is hereby created in all incorporated cities in this State having a population of two hundred and ninety thousand (290,000), or more, according to the preceding Federal Census, a fund to be known as the policemen's relief and retirement fund. Said fund shall be administered in each such city by a board to be known as the policemen's relief and retirement board.

The expression "pension fund," as used herein, shall mean the policemen's relief and retirement fund. The expression "pension board," as used in this Act, means the policemen's relief and retirement board of each such city. All members of the police department of any such city shall participate in said pension fund, and shall be subject to all of the provisions of this Act, save and except special officers, part-time officers, janitors, car washers, and cooks. With the exceptions just named, it is the intention hereof to include everyone who is designated by any such city as a member of said police department, regardless of the particular duty or duties performed by such person. The expressions "member" and "members," as used in this Act, mean members of any such police department who are entitled to participate in said pension fund as above set forth, that is, the entire personnel of any such police department, save and except special officers, part-time officers, janitors, car washers, and cooks, in each city.

Sec. 2. PENSION BOARD. Said pension board in each such city shall consist of one person to be appointed by the mayor and confirmed by the city council or governing body of such city, the city controller, or, if there be no city controller, then the person discharging the duties of the city controller in such city, and three (3) persons to be elected from the police department by the members.

As soon as practicable after the effective date of this Act, said members of each such police department shall elect said three (3) members of said pension board, one to be elected until the next succeeding January 1st thereafter, and two (2) to be elected until the second January 1st following such election, and thereafter, as the terms expire, new members to said pension board shall be similarly elected to hold office until the second January 1st following their respective elections. In case of vacancies, new members shall be elected to serve the unexpired term. All persons elected to said pension board shall hold office until their successors are elected and qualified. Any member shall be eligible to election to said pension board.

Said pension board shall annually elect a chairman, vice-chairman, and a secretary, from the members of said pension board. Each one so elected, shall serve until his successor is elected.

A meeting of said pension board may be called at any time by the chairman, secretary, or by any two (2) members of such pension board. Three (3) members of said pension board shall constitute a quorum for the transaction of business.

Each member of said pension board shall take an oath that he will well and faithfully perform the duties of a member of such pension board.

No moneys shall be paid out of the pension fund except upon an order by said pension board, duly entered in the minutes.

Sec. 3. TREASURER OF PENSION FUND. The city treasurer of any such city, or the person discharging the duties of the city treasurer, is hereby designated as the treasurer of the said pension fund for said city, and his official bond to said city shall operate to cover his position of treasurer of said pension fund. All moneys of every kind and character collected or to be collected for said fund, shall be paid over to said treasurer, and shall be administered and paid out only in accordance with the provisions of this Act.

Sec. 4. PER CAPITA CONTRIBUTIONS. Commencing with the next calendar month, immediately following the effective date of this Act, per capita contributions of all such members of each such police department as participate in such fund, as aforesaid, shall be made to said fund. Said monthly per capita contribution shall be made as follows: The salary and future salary of each member participating in such fund is hereby reduced Three Dollars ($3) per month, but said Three Dollars ($3) per month shall be paid by such city into the said

pension fund. No other money paid into said pension fund, however, shall be counted as a part of salary, under any law or ordinance fixing or pertaining to salaries of members, of any such police department.

Sec. 5. ACCUMULATED FUNDS. In all such cities where a general pension fund for city employees has been accumulated but has not been put into operation at the effective date of this Act, the governing body of each such city shall segregate from said fund, the proportion which the total number of members of the police department (eligible to said pension fund) bears to the entire number of all city employees, for whose benefit said fund was accumulated, and shall set aside such sum into the policemen's relief and retirement fund.

Sec. 6. ASSIGNMENTS OF SALARY TO FUND. Any members who have or may have any back or past due salary due them, from any such city, may assign all or any portion of such back salary to said pension fund, and such assignments as have or may hereafter be executed by any such members, are hereby validated and shall be recognized by the governing body of any such city, and such sums, if any, shall be paid into the said pension fund.

Sec. 7. APPROPRIATIONS TO FUND OUT OF GENERAL FUNDS OF CITY. Any such city may make additional appropriations from time to time out of its general fund, or otherwise, into the said pension fund, and hereafter when any such city shall make any appropriations for pensions of city employees or place any money into any such account, the proportionate amount thereof shall be placed in the policemen's relief and retirement fund. Said pension fund may also be augmented as follows: By the giving of entertainments and benefit performances; by gifts or donations from any person, firm, or corporation; all rewards hereafter paid to or due individual members for, or on account of service rendered by them as members of the police department, shall be paid into such fund; and said pension fund shall also participate in funds otherwise provided or that shall hereafter be provided by law pertaining to police pensions of cities of the class herein provided for.

Sec. 8. INVESTMENT OF SURPLUS FUNDS. Whenever, in the opinion of the said pension board, there is on hand in said pension fund, a surplus over and above a reasonably safe amount to take care of current demands upon such funds, such surplus, or so much thereof as in the judgment of the said pension board is deemed proper, may be invested in securities of the United States, the State of Texas, or

of counties, school districts, or municipal corporations. No investment shall be made, however, which does not meet with the approval of the city controller, if any, of such city.

Sec. 9. BENEFITS TO BEGIN NOT PRIOR TO JANUARY 1, 1942. No benefits of any kind shall be paid out of said fund prior to January 1, 1942.

Sec. 10. PENSION RATES. From and after January 1, 1942, any member who shall have been a member of such police department for the period of twenty-five (25) years, and who shall have reached the age of fifty (50) years, shall be entitled to a retirement pension of Seventy-five Dollars ($75) per month for the rest of his life upon his retirement from said police department. Upon the completion of the said twenty-five (25) years of service, such pension board shall issue to him a certificate showing that he is entitled to said retirement pension, and thereafter, when such member retires from the police department, whether such retirement be voluntary or involuntary, such monthly payments shall forthwith begin, and continue for the remainder of said member's life. Provided, however, that payments shall not commence until such member is fifty (50) years of age, and further provided that members who are eligible for a pension but who continue in the department shall make their per capita contributions until they retire from the department.

In computing the twenty-five (25) years service required for retirement pension, interruption of less than one year out of service, shall be construed as continuous service and such period out of service shall not be deducted from the twenty-five (25) years, but if out for more than one year and less than five (5) years, credit shall be given for prior service, but deduction made for the length of time out of service. If out of service more than five (5) years, no previous service prior to said time shall be counted.

Service with any such city in some other department, prior to January 1, 1939, shall be included in the twenty-five (25) years above provided for, but service after January 1, 1939, must be in the police department. The pension board may, within its discretion, provide for the payment of such retirement pension to a former member or members of the police department who have heretofore served for the twenty-five-year period and who have reached the age of fifty (50) years, and it is the intention hereof to include in the group of former members those who have heretofore been retired by any such city and who are drawing partial pay or compensation from such city.

Sec. 11. DISABILITY RESULTING FROM PERFORMANCE OF DUTY. If any member shall become totally or permanently disabled as a direct and proximate result of the performance of duties in the police department, said member shall be retired on a pension of Seventy-five Dollars ($75) per month.

By total and permanent disability is meant such disability as permanently incapacitates a member from performing the usual and customary duties of a police officer.

Before any retirement on disability pension is made, the pension board shall require such medical examination and such other evidence as it may see fit to establish such total and permanent disability, as above provided.

When any member has been retired for total and permanent disability, he shall be subject at all times to re-examination by the pension board and shall submit himself to such further examination as the pension board may require. If any member shall refuse to submit himself to any such examination, the pension board may within its discretion, order said payment stopped. If a member who has been retired under the provision of this Section, should thereafter recover so that in the opinion of the pension board, he is able to perform the usual and customary duties of a police officer, and such member is reinstated or tendered reinstatement in the police department, then the pension board shall order such payments stopped.

Said pension board may, at its discretion, retire on said permanent and total disability pension, those members of said police department who have heretofore become totally and permanently disabled, as that term is above defined.

Sec. 12. DEATH RESULTING FROM PERFORMANCE OF DUTY. Should any such member die, as a direct and proximate result of injuries received or sickness incurred in line of duty in said police department, the pension board shall order paid to the beneficiaries hereinafter designated, the sum of Seventy-five Dollars ($75) per month for a period of ten (10) years. Such beneficiaries shall be as follows: The surviving wife, surviving children under the age of sixteen (16) years, and the dependent parent or parents, if any. If there be neither surviving wife, children under the age of sixteen (16) years, nor dependent parents, then no payments shall be made on account of the death of any such member. If there be a surviving wife, but no children under the age of sixteen (16) years, then the entire payment of Seventy-five Dollars ($75) per month shall be made

to such surviving wife. If there be a surviving wife and children under the age of sixteen (16) years, then the payments shall be Thirty-seven Dollars and Fifty Cents ($37.50) per month to the wife and Thirty-seven Dollars and Fifty Cents ($37.50) per month payable to the legal guardian of such children, to be administered in accordance with the orders of the Probate Court. As each child becomes sixteen (16) years of age, the children's part of Thirty-seven Dollars and Fifty Cents ($37.50) per month shall thereafter be for the use and benefit of the children who then remain under the age of sixteen (16) years. When there are no longer any children under the age of sixteen (16) years, the entire amount of Seventy-five Dollars ($75) per month shall be paid the surviving wife. When there is no surviving wife, but there are surviving children under the age of sixteen (16) years, the entire Seventy-five Dollars ($75) per month shall be paid to the legal guardian of such children under the age of sixteen (16) years, but such payment shall not be made for or on account of any child after said child reaches the age of sixteen (16) years. Should such surviving wife thereafter die, then the entire Seventy-five Dollars ($75) shall likewise be paid for the benefit of such children as remain under the age of sixteen (16) years. If there be neither a surviving wife nor surviving children under the age of sixteen (16), then such payments shall be made to the dependent parent, or parents, if any, of such deceased member. If there be two (2) dependent parents, then the Seventy-five Dollars ($75) per month shall be divided equally between them, but if there be only one dependent parent, the Seventy-five Dollars ($75) per month shall be paid to said parent.

The term "dependent parent" means a parent who is principally dependent upon said member for a livelihood.

By the term "surviving wife" is meant the woman, if any, who is the lawful wife of said member at the time of his death.

No death benefits whatever shall be paid after the expiration of ten (10) years from the death of any said member, and no beneficiary shall ever receive more than Seventy-five Dollars ($75) per month.

In the event of women members of the department, their surviving husbands shall be entitled to the same rights and benefits as have the wives of the male members.

Sec. 13. PENSION TO DEPENDENTS, WHEN. When any member who has been retired upon pension, whether retirement pension or disability pension, or when any member who has a pension certificate shall

thereafter die from any cause, his pension of Seventy-five Dollars ($75) per month shall be payable to his dependents, if any, as is provided in the next preceding Section hereof, but only for the unexpired portion of ten (10) years. In computing said ten (10) years, such length of time as a pension may have been paid to said member during his lifetime shall be deducted from such ten-year period, and such dependents shall receive said payment only for the unexpired term of ten (10) years.

Sec. 14. REFUNDS ON LEAVING SERVICE. If any such member shall leave such police department either voluntarily or involuntarily before he is entitled to a pension, he shall have refunded to him the deductions from his salary, which have been paid into said pension fund. Said payments may be made to him, either in a lump sum or on a monthly basis, as may be determined by the pension board.

Provided, however, that this Section shall be subject to Section 10 and upon a re-entry into the department all such refunds shall be paid back into the pension fund or prior service of such member shall not be counted toward his retirement pension.

Sec. 15. REDUCTION OF BENEFITS AUTHORIZED IN CASE FUND IS DEPLETED. In the event said pension fund becomes seriously depleted, in the opinion of the pension board, said pension board may proportionately and temporarily reduce the benefits of all pensioners and beneficiaries, but such reductions shall thereafter be paid to such pensioners or beneficiaries as and when said fund is, in the opinion of the pension board, sufficiently re-established to do so.

Sec. 16. LEGAL COUNSEL FOR BOARD. The city attorney of any such city shall render such legal service, and without additional compensation, as such pension board may request him to do. The pension board may, if it deems necessary, employ additional legal assistance and pay reasonable compensation therefor, out of said police pension fund. Said pension board, may at its discretion, from time to time, employ the services of an actuary, and pay him reasonable compensation out of said police pension fund.

Sec. 17. PENSIONS NOT SUBJECT TO EXECUTION, ETC. No portion of any such pension fund, either before or after its order of disbursement by said pension board, and no amounts due or to become due any beneficiary or pensioner, under this Act, shall ever be held, seized, taken, subjected to, detained, or levied upon by virtue of any execution, attachment, garnishment, injunction, or other writ, and no order or decree, or any process or proceeding whatsoever,

shall issue out of or by any Court of this State for the payment or satisfaction in whole or in part out of said pension fund, of any debt, damage, claim, demand, or judgment against any such members, pensioners, dependents, or any person whomsoever, nor shall such police pension fund or any part thereof, or any claim thereto be directly or indirectly assigned or transferred and any attempt to transfer or assign the same or any part thereof, or any claim thereto, shall be void. Said fund shall be sacredly held, kept, and disbursed for the purposes provided by this Act, and for no other purposes whatsoever.

Sec. 18. SEVERABILITY CLAUSE. If any provision, section, part, subsection, sentence, clause, phrase, or paragraph of this Act be declared invalid or unconstitutional, the same shall not affect any other portion or provision hereof and all other provisions shall remain valid and unaffected by any invalid portion, if any.

Sec. 19. ACT TO BE CUMULATIVE TO OTHER LAWS. The provisions hereof shall be cumulative of and in addition to all other laws relating to pensions, which laws are hereby preserved and continued in force and effect, provided, however, that in the event of any conflict, the provisions of this law shall control, and police departmental pensions in the cities covered by this Act shall be administered in accordance with this law.

Acts 1939, 46th Leg., p. 105.

Art. 6243e. TEXAS LOCAL FIRE FIGHTERS RETIREMENT ACT.

Sec. 1. SHORT TITLE. This Act may be cited as the Texas Local Fire Fighters Retirement Act.

Sec. 2. DEFINITIONS. In this Act:

(1) "Contribution" means an amount of money paid by a municipality or other political subdivision to a retirement system or required to be paid periodically to a retirement system by or on behalf of a member of the retirement system for the purpose of financing benefits payable by the system.

(2) "Employee" means a person who regularly performs services for a fire department, who is a member of the retirement system that includes the fire department, and who regularly receives compensation for those services of at least $200 a month. The term includes a person described by Subsection (d) of Section 9 of this

Act who regularly receives compensation by the municipality or other political subdivision of at least $200 a month.

(3) "Fund" means a trust fund established in conjunction with a fire fighters' retirement system for the purpose of holding assets to be used to finance benefits payable by the system.

(4) "Participating member" means an employee who is required to make periodic contributions to a retirement system or a volunteer who meets the requirements of Subsection (b) of Section 10 of this Act.

(5) "Regularly organized fire department" means a unit that is responsible primarily for fighting fires and responding to other emergencies each day and that has specialized equipment for use in performing those tasks.

(6) "Retiree" means a person who receives a benefit, other than a return of contributions, from a retirement system for services the person performed as a member.

(7) "Retirement system" means a fire fighters' retirement system established as provided by Section 4 of this Act.

(8) "Volunteer" means a person who regularly performs services for a fire department, who is a member of the retirement system that includes the fire department, and who either receives no compensation for those services or regularly receives compensation for those services of less than $200 a month. The term includes a person described by Subsection (d) of Section 9 of this Act who either receives no compensation for service to a municipality or other political subdivision or regularly receives compensation for that service of less than $200 a month.

(9) "Compensation" includes amounts of workers' compensation benefits received by an employee and by which the employee's salary is reduced.

(10) "Determination date" means:

(A) the day before the effective date of an addition or change adopted by the board of trustees of a retirement system under Section 7 of this Act; or

(B) the date of divorce for a member or retiree whose benefits under this Act are subject to a qualified domestic relations order.

(11) "Vested accrued benefit" means the amount of the monthly benefit that a person is entitled to receive based on the person's service credit and compensation history as of the

determination date under the benefit formula and other terms established by a retirement system, including a vested percentage where applicable, as those terms exist on the determination date. The vested accrued benefit of a member is calculated without regard to any optional form of payment the member may select at retirement. The term does not include cost-of-living increases that may be applied to a benefit after the determination date.

Sec. 3. APPLICATION OF ACT. (a) This Act applies to each municipality in the state that has a regularly organized fire department not consisting exclusively of volunteers, except:

(1) a municipality all of whose fire department personnel participate in the Texas Municipal Retirement System;

(2) a municipality whose fire department is governed by another state law providing for retirement benefits for fire department personnel; and

(3) a municipality that has in effect a program providing retirement benefits for fire department personnel that was established by charter or ordinance before September 1, 1989.

(b) This Act also applies to each municipality in the state that has a fire department that:

(1) consists exclusively of volunteers;

(2) was organized before September 1, 1989, and remains a regularly organized department; and

(3) does not participate in the statewide program provided by Chapter 269, Acts of the 65th Legislature, Regular Session, 1977 (Article 6243e.3, Vernon's Texas Civil Statutes).

(c) If a municipality's fire department consists partly of employees participating in the Texas Municipal Retirement System and partly of employees or volunteers not participating in that retirement system, this Act applies to the persons who are not participating in the Texas Municipal Retirement System. In that circumstance, a provision of this Act that applies to members of a retirement system or to members of a fire department applies only to those members who are participating in a retirement system under this Act.

(d) If a municipality's fire department consists partly of volunteers participating in the statewide program provided by Chapter 269, Acts of the 65th Legislature, Regular Session, 1977 (Article 6243e.3, Vernon's Texas Civil Statutes), and partly of employees not participating in that program, this Act applies to the fire

department personnel who are employees. In that circumstance, a provision of this Act that applies to members of a retirement system or to members of a fire department applies only to those members who are employees.

(e) In addition to the other applicability of this Act, this Act applies to a political subdivision that has a regularly organized fire department not consisting exclusively of volunteers, except a political subdivision whose fire department is governed by another state law providing for retirement benefits for full-time paid fire department personnel. If the political subdivision's fire department consists partly of volunteers eligible to participate in the program provided by Subtitle H, Title 8, Government Code, and partly of employees, this Act applies to fire department personnel who are employees.

Sec. 4. RETIREMENT SYSTEM AND TRUST FUND. A fire fighters' retirement system and trust fund are established in each municipality or other political subdivision to which this Act applies. The board of trustees of each retirement system established by this Act shall hold or cause to be held in trust the assets appropriated or dedicated to the system or fund, separate from other money or accounts administered by the board of trustees or the municipality or other political subdivision, for the exclusive benefit of the members and retirees of the system and their beneficiaries.

Sec. 5. EXEMPTION FROM JUDICIAL PROCESS. All amounts in a trust fund of a retirement system subject to this Act and all rights accrued or accruing under this Act to any person are exempt from garnishment, attachment, execution, state and municipal taxation, sale, levy, and any other process and are unassignable.

Sec. 6. SOCIAL SECURITY. Provisions of a retirement system may not be integrated with social security as otherwise permitted under Sections 401(a)(4), (a)(5), and (l) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401).

Sec. 7. MODIFICATION OF BENEFITS AND ELIGIBILITY. (a) The board of trustees of a retirement system may change the benefits or eligibility requirements for benefits payable from the retirement system, may provide for reinstatement by a member of service credit previously forfeited, and may adopt or change other requirements for the payment of benefits, except as otherwise prohibited by this Act.

(b) Before a board of trustees chooses to adopt or change a benefit or requirement for payment of benefits under this section,

the proposed addition or change must be approved by:

(1) an eligible actuary selected by the board; and

(2) a majority of the participating members of the retirement system voting on the addition or change by secret ballot at an election held for that purpose at which at least 50 percent of all participating members of the retirement system vote.

(c) To be eligible to approve an addition or change under this section, an actuary must be either a fellow of the Society of Actuaries or a member of the American Academy of Actuaries.

(d) Except as provided by Subsection (e) of this section, if a board chooses to adopt an addition or change after it has been approved as provided by this section, the addition or change applies to all persons who are participating members of the retirement system on the effective date of the addition or change and all persons who became participating members during the time the addition or change remains in effect. The addition or change also may apply to:

(1) persons receiving monthly benefits; or

(2) former members of the fire department who meet an applicable length-of-service requirement for service retirement.

(e) An addition or change adopted under this section may not, without the written consent of the member, retiree, or eligible survivor under Section 15 of this Act, deprive a member of the retirement system, a retiree, or an eligible survivor of a right to receive a vested accrued benefit.

(f) The effective date of a change or addition adopted under this section is a date specified by the board of trustees that is not earlier than the date of adoption by the board. A change or addition may not be applied retroactive to its effective date unless required to maintain a plan's tax qualification status.

Sec. 8. RECOVERY OF AMOUNTS WRONGFULLY OBTAINED. The board of trustees of a retirement system subject to this Act may initiate or cause to be initiated a suit against any appropriate person to recover amounts paid or obtained from the trust fund through fraud, misrepresentation, theft, or other misapplication or by mistake. The board of trustees shall deposit amounts recovered under this section in the trust fund for the retirement system.

Sec. 9. MEMBERSHIP. (a) Except as otherwise provided by this section, a person who is an employee of a fire department included within the coverage of a retirement system is a member of the retirement system if the person is younger than 36 years old on the

date the person is certified under civil service as eligible for a beginning position with the department.

(b) Except as provided by Subsections (c), (d), (e), and (g) of this section, a person who performs services as a volunteer of a fire department included within the coverage of a retirement system is a member of the retirement system.

(c) A board of trustees established under this Act may, in accordance with Section 7 of this Act:

(1) require a waiting period before retirement system membership begins;

(2) include within the required membership of the retirement system categories of personnel, other than personnel performing services for the fire department, who perform emergency medical or fire department-related services; or

(3) exclude from membership categories of fire department personnel not regularly directly engaged in the fighting of fires.

(d) If a board of trustees, under Subdivision (2) of Subsection (c) of this section, includes categories of personnel within the membership of a retirement system, for purposes of this Act, the personnel are considered employees or volunteers, as applicable, of the fire department and their service is considered as if it were performed for the fire department included within the coverage of the retirement system.

(e) As a condition of membership in a retirement system, a board of trustees may by order require persons to pass a physical examination given by a physician of the board's choice but may not require the persons to pay the cost of the examination.

(f) A board of trustees of a retirement system for a fire department may by order authorize membership in the retirement system for employees of the department who are 36 years old or older at the time they become employees but who first became fire fighters at an age younger than 36. Membership under an authorization is optional with each employee, except that an employee must, before beginning membership, pass any physical examination requirement established under Subsection (e) of this section.

(g) A service retiree of a retirement system may not rejoin or receive credit in the system for any postretirement service performed for the fire department included within the coverage of the system.

Sec. 10. SERVICE CREDIT. (a) Service credit is earned in a retirement system for each month for which an employee makes the

contribution required under this Act.

(b) Service credit is earned in a retirement system for each calendar year in which a volunteer answers at least 25 percent of all fire alarms determined by the board of trustees and attends at least 40 percent of all drills held by the fire department.

(c) A retirement system shall also grant service credit to a member who leaves the service of a fire department and later returns, if the break in service is attributable to service for any period as a member of the armed forces of the United States during a war or national emergency.

(d) Absence from service by an employee does not forfeit service credit accrued before the absence begins, unless membership is terminated. Absence from service by a volunteer does not forfeit service credit accrued before the absence begins.

(e) A board of trustees established under this Act may, in accordance with Section 7 of this Act, expand the circumstances under which service credit is earned.

Sec. 11. PREVIOUS FIRE DEPARTMENT SERVICE. (a) Except as provided by Subsection (c) of this section, a person who elects to become a member of a retirement system under an authorization adopted under Subsection (f) of Section 9 of this Act may establish credit in the retirement system for previous service performed for another fire department included within the coverage of a retirement system under this Act. To establish credit for the previous service, the person must deposit with the retirement system an amount determined by the board of trustees that is equal to the sum of:

(1) the amount that the person would have contributed to the system if the person's previous fire department service had been performed for the department by which the person is employed, computed on the member contribution rate in effect in the retirement system at the time the service was performed and on the person's compensation for the previous service; and

(2) interest on the amount described by Subdivision (1) of this subsection at the rate of eight percent, compounded annually, from the date the service was performed to the date of deposit.

(b) If a person makes the deposit described by Subsection (a) of this section, the municipality or other political subdivision served by the fire department that employs the person shall deposit with the retirement system an amount determined by the board that is equal to the sum of:

(1) the amount that the municipality or other political subdivision would have contributed to the system if the person's previous fire department service had been performed for the department by which the person is employed, computed on the contribution rate of the municipality or other political subdivision in effect in the retirement system at the time the service was performed and on the person's compensation for the previous service; and

(2) interest on the amount described by Subdivision (1) of this subsection at the rate of eight percent, compounded annually, from the date the service was performed to the date of deposit.

(c) A person may not establish credit under this section for service that is credited in another public retirement system, including another retirement system subject to this Act.

Sec. 12. SERVICE RETIREMENT. (a) A member of a retirement system is eligible for retirement for service if the member is at least 55 years old and has performed at least 20 years of service that is credited in the retirement system.

(b) Except as provided by Subsection (c) of this section, monthly benefits payable for service retirement are $100 to a retiree whose service was not exclusively as a volunteer and $25 to a retiree whose service was exclusively as a volunteer.

(c) A board of trustees established under this Act may, in accordance with Section 7 of this Act:

(1) decrease the age or service requirements for service retirement from a particular retirement system; or

(2) determine formulas for computing benefits, classes of permissible beneficiaries, and other requirements for payment of service retirement benefits, as long as the minimum benefits payable to a retiree are not less than the amounts provided by Subsection (b) of this section.

Sec. 13. (a) A member of a retirement system who meets an applicable length-of-service requirement for service retirement benefits but does not meet the applicable age requirement for service retirement benefits may terminate employment with or otherwise discontinue service for the fire department and remain eligible to receive service retirement benefits from the retirement system on attaining the applicable age, as long as the member does not withdraw contributions in the retirement system.

(b) A member who terminates employment or otherwise

discontinues service after meeting an applicable length-of-service requirement for service retirement may not be required to pay to the retirement system contributions that become due after the date of termination or discontinuance.

Sec. 14. DISABILITY RETIREMENT. (a) A member of a retirement system is eligible for retirement for disability if the member becomes physically or mentally disabled, except as the result of a condition the member had on the date the member became an employee or volunteer, in or in consequence of the performance of the member's duties as an employee or volunteer of the fire department included within the coverage of the retirement system.

(b) An application for disability retirement must be filed with the board of trustees of the retirement system of which the applicant is a member. The application must contain a sworn statement of the member's medical condition, signed by a physician attending the member, and a sworn statement of the circumstances under which the disability arose, signed by the member or another person who has reason to know those circumstances. The application also may contain other pertinent information to enable the board to determine whether the member is eligible for disability retirement.

(c) A board of trustees may require an applicant for disability retirement to be medically examined by one or more physicians of the board's choice but may not require the applicant to pay the cost of a medical examination required under this subsection.

(d) If a board of trustees determines that an applicant for disability retirement meets the eligibility requirements for disability retirement from the retirement system, the board shall retire the member.

(e) Except as provided by Subsection (f) of this section, monthly benefits payable for disability retirement are $100 to a retiree whose service was not exclusively as a volunteer and $25 to a retiree whose service was exclusively as a volunteer.

(f) A board of trustees established under this Act may, in accordance with Section 7 of this Act:

(1) expand the circumstances under which disability retirement benefits become payable;

(2) require periodic medical examinations of, periodic vocational rehabilitation examinations of, or periodic financial information from disability retirees to determine whether the retiree remains eligible to receive disability retirement benefits; or

(3) determine formulas for computing benefits, classes of permissible beneficiaries, and other requirements for payment of disability retirement benefits, as long as the minimum benefits payable to a retiree who remains eligible for disability retirement resulting from the performance of duty are not less than the amounts provided by Subsection (e) of this section.

(g) The vested accrued benefit of a retiree under this section who is retired as of the determination date is subject to the terms established by the retirement system as those terms exist on the determination date and is payable to the retiree only if the retiree meets the eligibility requirements established by the board of trustees under this section.

(h) Notwithstanding any other provision of this Act, a disability retirement benefit is not a vested accrued benefit until a member becomes disabled under the terms of the retirement system.

Sec. 15. DEATH BENEFITS. (a) A death benefit is payable as provided by this section on the death:

(1) of a member of a retirement system that occurs in or in consequence of the performance of the member's duties as an employee or volunteer of the fire department included within the coverage of the retirement system;

(2) of a member of a retirement system for any reason if the member met the applicable length-of-service requirement for service retirement at the time of death; or

(3) of a retiree of a retirement system.

(b) Except as otherwise provided by this section, monthly benefits payable on the death of a member or retiree are:

(1) $100 to an eligible surviving spouse of a member or retiree whose service was not exclusively as a volunteer and $16.67 to an eligible surviving spouse of a member or retiree whose service was exclusively as a volunteer;

(2) if there is an eligible surviving spouse and a minor child, $20 to the guardian of each minor child of a member or retiree whose service was not exclusively as a volunteer and $6 to the guardian of each minor child of a member or retiree whose service was exclusively as a volunteer;

(3) if there is no eligible surviving spouse at the time of death of the member or retiree or if the surviving spouse dies or becomes ineligible to receive benefits during the minority of a surviving child, $40 to the guardian of each minor child of a member

or retiree whose service was not exclusively as a volunteer and $12 to the guardian of each minor child whose service was exclusively as a volunteer; and

(4) if there is no eligible surviving spouse or minor child at the time of death of the member or retiree, a total of $100 to one or more surviving dependent parents of a member or retiree whose service was not exclusively as a volunteer and a total of $16.67 to one or more dependent parents of a member or retiree whose service was exclusively as a volunteer.

(c) To be eligible to receive benefits as a surviving spouse under this section, a person must remain unmarried after the death of the member or retiree. To be eligible to receive benefits as a surviving spouse of a deceased retiree, a person also must have married the deceased before the deceased's retirement. To be eligible to receive benefits as a surviving spouse of a deceased member who had terminated employment with or otherwise discontinued service for the fire department, a person also must have married the deceased before the termination or discontinuance.

(d) If a member or retiree for whom death benefits are payable under this section is survived by a child who is totally disabled as a result of physical or mental illness, injury, or retardation, the guardian of the child is entitled to receive for the benefit of the child and the duration of the child's disability any benefit that would be payable to the guardian of a surviving minor child.

(e) A board of trustees established under this Act may, in accordance with Section 7 of this Act:

(1) expand the circumstances under which death benefits become payable; or

(2) determine formulas for computing benefits, classes of permissible beneficiaries, exclusions from payment of benefits for certain causes of death, and other conditions for payment of death benefits.

(f) The vested accrued benefit that an eligible survivor receives under this section as the result of the death of a member or retiree on or before the determination date is subject to the terms established by the retirement system as those terms exist on the determination date.

(g) Notwithstanding any other provision of this Act, a death benefit is not a vested accrued benefit until the member or retiree for whom death benefits are payable dies.

Sec. 16. REDUCTION OF BENEFITS DURING DEFICIENCY. If money available for benefits currently payable by a retirement system is insufficient to pay the full amount of those benefits, a board of trustees may proportionately reduce all benefit payments for the time necessary to prevent payments from exceeding money available to pay the benefits.

Sec. 17. PERSON CAUSING DEATH OF MEMBER OR ANNUITANT. (a) A benefit payable on the death of a member or annuitant may not be paid to a person convicted of causing that death but instead is payable to a person who would be entitled to the benefit had the convicted person predeceased the decedent. If no person would be entitled to the benefit, the benefit is payable to the decedent's estate.

(b) A retirement system is not required to pay a benefit under Subsection (a) of this section unless it receives actual notice of the conviction of the person who would have been entitled to the benefits. However, a retirement system may delay payment of a benefit payable on the death of a member or annuitant pending the results of a criminal investigation and of legal proceedings relating to the cause of death.

(c) For the purposes of this section, a person has been convicted of causing the death of a member or annuitant if the person:

(1) has pleaded guilty or nolo contendere to or has been found guilty by a court of an offense at the trial of which it is established that the person's intentional, knowing, or reckless act or omission resulted in the death of a person who was a member or annuitant, regardless of whether sentence is imposed or probated; and

(2) has no appeal of the conviction pending and the time provided for appeal has expired.

Sec. 18. PROVISIONS APPLICABLE TO BOARDS OF TRUSTEES GENERALLY. (a) A board of trustees established under this Act may receive, handle, control, manage, and disburse the fund for the retirement system, hear and determine all applications for retirement and claims for disability, either partial or total, and designate beneficiaries and participants as provided by this Act. The chairman and vice chairman of a board may swear witnesses for the purpose of taking testimony before the board on any matter related to the fund. A board may issue a subpoena addressed to a sheriff or constable to require the attendance of a witness or the production of books, records, or other documents that may be necessary and proper for the

purposes of a proceeding before the board.

(b) A member of a board of trustees established under this Act takes office on the first meeting of the board that occurs after the member is elected or designated a member or assumes the position that makes the person a member ex officio. At the time a person takes office as a member of a board of trustees established under this Act, the person shall take an oath of office that the person will diligently and honestly administer the affairs of the retirement system and fund and will not knowingly violate or willingly permit to be violated any provision of this Act.

(c) A board of trustees established under this Act shall meet monthly at such times and places as the board by resolution designates and at other times at the call of the chairman. A majority of the trustees of a board is a quorum.

(d) A board established under this Act shall keep accurate minutes and records of its proceedings and a record of all claims, receipts, and disbursements relating to the fund. An order of a board must be made by vote recorded in the minutes of its proceedings.

(e) A board established under this Act may make a disbursement from the fund only on a regular voucher signed by one or more persons designated by the board. Subject to the approval of a majority of the participating members voting by secret ballot at an election at which at least 50 percent of the participating members of the retirement system vote, a board established under this Act shall determine whether the signatures of one, two, or three persons are required for vouchers.

(f) A board of trustees established under this Act may designate a bank or, as applicable, the chief financial officer of the municipality or other political subdivision or the secretary-treasurer of the board to be custodian of the assets of the retirement system. If the chief financial officer or the secretary-treasurer of the board is designated custodian, the person's official bond and oath of office are conditioned additionally on the faithful performance of the person's duties as custodian of the assets of the retirement system.

(g) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1316, Sec. 4.01(3), eff. June 14, 2013.

(h) A vacancy in the office of a trustee of a board established under this section shall be filled for the remainder of the unexpired

term in the manner that the office was previously filled.

Sec. 18A. Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1316, Sec. 4.01(4), eff. June 14, 2013.

Sec. 18B. TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION FOR BOARDS OF TRUSTEES. (a) The State Pension Review Board shall provide technical assistance, training, and information to members of the boards of trustees established under this Act. The training required by this section must be designed to meet the specific needs of members of boards of trustees administering benefit plans for local fire fighters, including small-to-medium-sized benefit plans.

(b) To the extent resources are available, the board shall designate one person who specializes in providing the technical assistance, training, and information required under Subsection (a).

Sec. 19. BOARD OF TRUSTEES FOR PAID OR PART-PAID FIRE DEPARTMENT. (a) In each municipality and other political subdivision to which this Act applies and that has a fire department that does not consist exclusively of volunteers, the fire fighters' retirement system is governed by a board of trustees consisting of:

(1) in a municipality, the mayor or the mayor's designated representative; in an emergency services district, the president of the board of emergency services commissioners; or in another political subdivision, the chief operating officer or the chief operating officer's designated representative, as applicable;

(2) the chief financial officer of the municipality or other political subdivision or, if there is no officer denominated as chief financial officer, the person who performs the duties of chief financial officer or a person designated by the chief financial officer or by the person performing the duties of chief financial officer;

(3) three members of the retirement system elected by participating members as provided by Subsection (b) of this section; and

(4) two persons who reside in this state, who are not officers or employees of the municipality or other political subdivision, and who are elected by a majority vote of the members of the board of trustees determined as provided by Subdivisions (1), (2), and (3) of this subsection.

(b) During each period that begins on December 1 of one year and ends on January 31 of the following year, the participating members of a fire fighters' retirement system in a municipality or

other political subdivision subject to this section shall elect by secret ballot and certify to the governing body of the municipality or other political subdivision a member to the board of trustees to serve a term of three years. To be elected a member of a board of trustees under this subsection, a person must be a participating member of the retirement system and receive a majority of the votes cast in the election, and at least 50 percent of all participating members of the retirement system must vote in the election. Provided, however, that if only a single person is nominated for the board of trustees position being filled, that person may be elected by acclamation by those participating members present for the election meeting, without the necessity of a secret ballot.

(c) Annually, at a meeting in March, the members of a board of trustees determined as provided by Subdivisions (1), (2), and (3) of Subsection (a) of this section shall elect a member to the board, as provided by Subdivision (4) of Subsection (a) of this section, to serve a term of approximately two years that expires on the day before the date of the first board meeting that occurs after the meeting at which a successor is elected.

(d) A board of trustees established under this section annually shall elect a chairman, vice-chairman, and secretary.

(e) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1212, Sec. 4, eff. June 14, 2013.

Sec. 20. BOARD OF TRUSTEES FOR VOLUNTEER FIRE DEPARTMENT. (a) In each municipality to which this Act applies and that has a fire department consisting exclusively of volunteers, the fire fighters' retirement system is governed by a board of trustees consisting of:

(1) the mayor of the municipality or the mayor's designated representative;

(2) the municipal treasurer or, if there is no officer denominated as treasurer, the person who performs the duties of municipal treasurer; and

(3) three members of the retirement system elected by participating members as provided by Subsection (b) of this section.

(b) During each period that begins on December 1 of one year and ends on January 31 of the following year, the participating members of a fire fighters' retirement system in a municipality subject to this section shall elect by secret ballot and certify to the governing body of the municipality a member to the board of trustees to serve a term of approximately three years that expires on

the day before the date of the first board meeting that occurs after the election of a successor. To be elected a member of a board of trustees under this subsection, a person must be a member of the retirement system and receive a majority of the votes cast in the election, and at least 50 percent of all participating members of the retirement system must vote in the election.

(c) The municipal treasurer is the secretary-treasurer of a board of trustees established under this section. A board of trustees established under this section annually shall elect a chairman and a vice-chairman to preside in the absence or disability of the chairman.

Sec. 21. Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1316, Sec. 4.01(5), eff. June 14, 2013.

Sec. 21A. Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1316, Sec. 4.01(6), eff. June 14, 2013.

Sec. 22. APPEALS FROM LOCAL BOARD DECISIONS. (a) A person aggrieved by a decision of a board of trustees relating to eligibility for or amount of benefits payable by a retirement system may appeal the decision to the State Office of Administrative Hearings.

(b) An appeal under this section is begun by delivering a notice of appeal with the chairman, secretary, or secretary-treasurer of the board of trustees that made the decision. The notice must be delivered not later than the 20th day after the date of the decision and contain a brief description of the reasons or grounds for appeal. The aggrieved person must file a copy of the notice with the State Pension Review Board.

(b-1) As soon as practicable after receiving a notice of appeal under Subsection (b) of this section, the State Pension Review Board shall refer the matter to the State Office of Administrative Hearings by submitting notice of the appeal to that office.

(c) An appeal under this section is held in Austin and is a contested case under Chapter 2001, Government Code, conducted as a de novo hearing by the State Office of Administrative Hearings.

(d) The sole function of the State Pension Review Board with respect to an appeal under this section is to refer the appeal to the State Office of Administrative Hearings, and that office has exclusive authority to decide the appeal.

Sec. 22A. ATTORNEY. A board of trustees may employ an attorney to represent the board in one or all legal matters, including a

hearing on appeal to the State Office of Administrative Hearings. At the request of a board of trustees, the city attorney of the municipality of which the board is a part shall, without additional compensation, represent the board in one or all legal matters.

Sec. 23. ACTUARY. (a) A board of trustees established under this Act may employ an actuary to provide actuarial services.

(b) The cost of actuarial services may be paid from assets of the fund.

Sec. 24. CERTIFIED PUBLIC ACCOUNTANT. (a) A board of trustees established under this Act may employ a certified public accountant or a firm of certified public accountants to perform an audit of the fund in accordance with Section 12.102, Title 110B, Revised Statutes.

(b) The cost of an audit may be paid by the municipality or other political subdivision or from the assets of the fund.

Sec. 25. OTHER EXPENSES. (a) Except as provided by Subsection (b) of this section, a board of trustees established under this Act may pay from assets of the fund all costs reasonably and lawfully incurred by the retirement system and the costs of actual expenses incurred by board members in the performance of their duties on the board. A member of the board may not receive compensation for service on the board.

(b) The annual amount of payments from a fund under this section, excluding legal and medical fees, may not exceed:

(1) 1 percent of the market value of the assets of the fund for the first $1 million in market value; and

(2) 1/4 of 1 percent of the market value of the assets of the fund that exceeds $1 million.

Sec. 26. GIFTS ACCEPTED FROM ANY SOURCE. The board of trustees of a retirement system established under this Act is authorized to accept and receive for the use and benefit of the fund, in addition to member contributions and contributions of the municipality or other political subdivision, gifts of money from any source.

Sec. 27. INVESTMENT OF ASSETS. (a) A board of trustees established under this Act shall keep a sufficient amount of cash on hand to make payments as they become due under the retirement system. If a board determines that the fund of its retirement system contains an amount in excess of the amount needed to make payments as they become due, the board may invest any portion of the excess.

(b) In making investments for a retirement system, its board of trustees shall exercise the judgment and care, under the

circumstances prevailing at the time of the investment, that persons of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in speculation but when making a permanent disposition of their funds, considering the probable income from the disposition and the probable safety of their capital.

(c) A board of trustees established under this Act may not invest in the stock or bonds of one corporation more than five percent of the book value of the assets of a fund. A retirement system may not own more than five percent of the voting stock of one corporation.

(d) A board of trustees established under this Act shall adopt formal investment policies that emphasize safety and diversity as well as liquidity for benefit payments. In developing those policies, the board of trustees shall give special consideration to the preferred investment practices of the Government Financial Officers Association.

Sec. 28. INVESTMENT MANAGER AND COUNSELING SERVICE. (a) The board of trustees of a retirement system established under this Act may appoint investment managers for the system by contracting for professional investment management services with one or more organizations, which may include a bank if it has a trust department, that are in the business of managing investments.

(b) To be eligible for appointment under Subsection (a) of this section, an investment manager must be:

(1) registered under the Investment Advisors Act of 1940 (15 U.S.C. Section 80b-1 et seq.);

(2) a bank as defined by that Act; or

(3) an insurance company qualified to perform investment services under the laws of more than one state.

(c) In a contract made under this section, the board of trustees shall specify policies, requirements, and restrictions, including criteria for determining the quality of investments and for the use of standard rating services, that the board of trustees adopts for investments of the system.

(d) In choosing and contracting for professional investment management services and in continuing the use of an investment manager, the board of trustees must act prudently and in the interest of the participants and beneficiaries of the retirement system.

(e) A trustee is not liable for the acts or omissions of an investment manager appointed under this section, nor is a trustee

obligated to invest or otherwise manage any asset of the system subject to management by the investment manager.

(f) A board of trustees established under this Act may employ professional investment counselors to assist and advise the board in the investment of the assets of the fund or to evaluate the performance of an investment manager appointed under this section. The investment counseling service must be provided by an organization whose business functions include performing continuous investment advisory service to public retirement systems.

(g) The cost of investment managing or counseling services may be paid by the municipality or other political subdivision or from the assets of the fund.

(h) A retirement system established under this Act is exempt from Subchapter C, Chapter 802, Government Code, except Sections 802.202, 802.205, and 802.207.

Sec. 29. CONTRIBUTIONS. (a) Each person who is a member of a retirement system as a current fire department employee shall make contributions to the system. Except as provided by Subsection (d) of this section, a contribution required under this subsection is computed on the employee's periodic compensation at a rate determined by majority vote of the employees of the department who are members, at an election by secret ballot at which at least 50 percent of those employees vote. Except as provided by Section 30 of this Act, the payroll officer of the municipality or other political subdivision shall deduct the contributions required under this subsection each payroll period and submit them to the retirement system.

(b) A municipality or other political subdivision that has employees who are participating members of a retirement system shall make contributions to the system each payroll period. Except as provided by Subsection (d) of this section, contributions required under this subsection are computed on the total compensation paid to the employees who are participating members of the system. A municipality or other political subdivision is required to make contributions under this subsection at the same rate paid by employees or 12 percent, whichever is the smaller rate. The governing body of a municipality or other political subdivision by ordinance may adopt a rate of employer contributions that is greater than the rate required by this subsection.

(c) Contributions by a municipality or other political subdivision determined under Subsection (b) or (d) of this section

are payable each payroll period to the retirement system.

(d) Contributions required under Subsections (a) and (b) of this section are computed on the average compensation of all employees of the department for the preceding year, if this method of computation is adopted by majority vote of the employees of the department who are members, at an election by secret ballot at which at least 50 percent of the participating members vote, and is also adopted by ordinance of the governing body of the municipality or other political subdivision. The average compensation of department employees shall be computed for each 12-month period as determined by the board of trustees.

(e) Each person who is a member of a retirement system as a current fire department volunteer shall contribute to the system an annual amount determined by majority vote by secret ballot of the volunteers of the department who are participating members of the retirement system. A municipality may at any time make the member contributions required under this subsection on behalf of its volunteers and any other contributions the municipality chooses to make to the retirement system.

(f) Payment of member contributions required under this Act are conditions of employment and participation in the retirement system to which the contributions are due.

(g) Except as otherwise provided under Section 7 of this Act, a member of a retirement system may withdraw all of the member's accumulated contributions to the system if the member terminates service for the fire department included within the coverage of the system for a reason other than service or disability retirement. The estate of a deceased member may withdraw all of the deceased member's accumulated contributions if a survivor or alternative monthly benefit is not payable as a result of the death. A withdrawal of contributions cancels a person's membership and credit in the retirement system.

Sec. 30. PICK UP OF EMPLOYEE CONTRIBUTIONS. (a) A municipality or other political subdivision may pick up the employee contributions required by Subsection (a) of Section 29 of this Act for all compensation that is earned by participating members of the retirement system on or after the effective date of the pick up. Employee contributions picked up as provided by this section are in lieu of deductions of employee contributions from paychecks or warrants and shall be paid by the municipality or other political

subdivision to the retirement system from the same source of funds that is used in paying compensation to the members. A pick up of employee contributions shall be accompanied by a reduction in the compensation of members, an offset against a future increase in member compensation, or a combination of compensation reduction and offset against a compensation increase. Unless otherwise determined by the governing body of the municipality or other political subdivision and approved by majority vote of the participating members at an election by secret ballot, a pick up of contributions results in a corresponding reduction in compensation.

(b) Contributions picked up as provided by this section shall be treated as employer contributions in determining tax treatment of the amounts under the Internal Revenue Code of 1986. Employee contributions picked up as provided by this section shall be deposited to the credit of the individual account of each affected member and shall be treated for all other purposes of this Act as if the contributions had been deducted from the compensation of members. Picked up contributions are not includable in a computation of contribution rates of the municipality or other political subdivision.

(c) A pick up of employee contributions takes effect in a municipality or other political subdivision on January 1 of the year following the year in which:

(1) the governing body of the municipality or other political subdivision by ordinance has adopted the pick up; and

(2) the pick up has been approved by majority vote of the participating members of the retirement system at an election by secret ballot at which at least 50 percent of the participating members vote.

(d) A pick up of employee contributions is terminated in a municipality or other political subdivision on January 1 of the year following the year in which:

(1) the termination has been approved by a two-thirds vote of the participating members of the retirement system at an election by secret ballot at which at least 50 percent of the participating members vote; and

(2) the governing body of the municipality or other political subdivision has repealed the ordinance that adopted the pick up of employee contributions.

Sec. 31. TERMINATION OF PARTICIPATION IN ACT. (a) A

retirement system for a fire department not consisting exclusively of volunteers may not be terminated or merged into another retirement system without the approval of the board of trustees of the retirement system and the approval of the participating members of the system in the manner described by Subdivision (2) of Subsection (b) of Section 7 of this Act provided 51 percent of the volunteers first petition the board for such change.

(b) The board of trustees of a retirement system for a fire department consisting partly of employees and partly of volunteers may transfer assets actuarially attributable to the volunteers from the retirement system under this Act to the statewide program provided by the Texas Statewide Volunteer Fire Fighters Retirement Act (Article 6243e.3, Vernon's Texas Civil Statutes), if the board obtains approval as provided by Section 7 of this Act provided 51 percent of the volunteers first petition the board for such change.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1316, Sec. 4.01(7), eff. June 14, 2013.

Sec. 31A. AUTHORITY OF CERTAIN RETIREMENT SYSTEMS TO EXCLUDE CERTAIN PERSONS FROM COVERAGE. (a) In this section, "closure effective date" means the first day of the second month after the month in which the Texas Municipal Retirement System receives retirement system plan documents under Subsection (f)(2) of this section.

(b) This section applies only to a municipality:

(1) with a population of less than 200,000;

(2) that is located in a county with a population of not less than 2 million and not more than 4 million;

(3) that has a regularly organized fire department for which a retirement system and fund have been established under Section 4 of this Act; and

(4) that before January 1, 2017, has one or more departments participating in the Texas Municipal Retirement System.

(c) Subject to the requirements of this section, the governing body of a municipality subject to this section may adopt one or more ordinances to exclude from participation in the retirement system employees of the fire department first hired on or after the closure effective date.

(d) If the governing body of a municipality adopts an ordinance under Subsection (c) of this section, the governing body shall concurrently adopt an ordinance to allow the employees described by

the ordinance to participate in the Texas Municipal Retirement System.

(e) Not later than the 60th day after the date an ordinance is adopted under Subsection (c) of this section, the municipality shall submit the ordinance to an election of the participating members of the retirement system established in the municipality. To be approved at the election, a majority of the participating members must vote in favor of the ordinance.

(f) If the voting members approve an ordinance under Subsection (e) of this section, as soon as practicable after the date of the election:

(1) the board of trustees of the retirement system shall amend the retirement system plan documents as necessary to be consistent with the approved ordinance; and

(2) the municipality shall give written notice of the results of the election to the Texas Municipal Retirement System and include copies of the relevant ordinances and any amended retirement system plan documents.

(g) If a municipality adopts ordinances under Subsections (c) and (d) of this section, all subsequent actions authorized or required by this section must be completed before October 1, 2018. If all subsequent actions are not completed before October 1, 2018:

(1) as soon as practicable after that date, the Texas Municipal Retirement System shall publish notice to that effect in the Texas Register; and

(2) Section 851.0011, Government Code, this section, and the ordinances adopted under Subsections (c) and (d) of this section expire on October 1, 2018.

Sec. 32. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS, RETIREES, ANNUITANTS, OR BENEFICIARIES. (a) Information contained in records that are in the custody of a retirement system established under this Act concerning an individual member, retiree, annuitant, or beneficiary is confidential under Section 3(a)(1), Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), and may not be disclosed in a form identifiable with a specific individual unless:

(1) the information is disclosed to:

(A) the individual;

(B) the individual's attorney, guardian, executor, administrator, conservator, or other person who the board of trustees

of the retirement system determines is acting in the interest of the individual or the individual's estate;

(C) a spouse or former spouse of the individual if the board of trustees determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the retirement system; or

(D) a person authorized by the individual in writing to receive the information; or

(2) the information is disclosed under an authorization of the board of trustees that specifies the reason for the disclosure.

(b) This section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree, deceased member or retiree, or beneficiary of the retirement system.

(c) A determination and disclosure under Subsection (a) of this section may be made without notice to the individual member, retiree, annuitant, or beneficiary.

Amended by Acts 1989, 71st Leg., ch. 98, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 439, Sec. 12, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 104, Sec. 1 to 7, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 129, Sec. 1, 2, 5, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 5.17, eff. Nov. 12, 1991; Acts 1993, 73rd Leg., ch. 173, Sec. 1 to 15, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 265, Sec. 4, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 710, Sec. 1 to 13, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 464, Sec. 1, 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1291, Sec. 1, eff. June 20, 1997; Acts 1999, 76th Leg., ch. 958, Sec. 1 to 3, eff. Aug. 30, 1999; Acts 2001, 77th Leg., ch. 13, Sec. 1 to 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 327, Sec. 1, 2, eff. Sept. 1, 2001.

Sec. 2(10), (11) added by Acts 2003, 78th Leg., ch. 683, Sec. 1, eff. June 20, 2003; Sec. 7(e) amended by Acts 2003, 78th Leg., ch. 683, Sec. 2, eff. June 20, 2003; Sec. 14(g), (h) added by Acts 2003, 78th Leg., ch. 683, Sec. 3, eff. June 20, 2003; Sec. 15(f), (g) added by Acts 2003, 78th Leg., ch. 683, Sec. 4, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 328 (H.B. 2799), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1116 (H.B. 3731), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1116 (H.B. 3731), Sec. 2, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1116 (H.B. 3731), Sec. 3, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1116 (H.B. 3731), Sec. 4, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 614 (H.B. 874), Sec. 4(37), eff. June 19, 2009.

Acts 2009, 81st Leg., 1st C.S., Ch. 2 (S.B. 2), Sec. 2.16, eff. July 10, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. 200), Sec. 16, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1212 (S.B. 1413), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1212 (S.B. 1413), Sec. 2, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1212 (S.B. 1413), Sec. 3, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1212 (S.B. 1413), Sec. 4, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 99(35), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 2.01, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 2.02, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 2.03, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 2.04, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 2.05, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 4.01(3), eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 4.01(4), eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 4.01(5), eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 4.01(6), eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 4.01(7), eff. June 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 886 (H.B. 3056), Sec. 1, eff. September 1, 2017.

Art. 6243e.1. FIREFIGHTERS RELIEF AND RETIREMENT FUND IN CITIES OF 450,000 TO 500,000.

ARTICLE 1. GENERAL PROVISIONS

Sec. 1.01. APPLICABILITY. This Act applies only to a municipality having a population of more than 750,000 and less than 850,000.

Sec. 1.02. DEFINITIONS. In this Act:

(1) "Accumulated contributions" means all sums of money, including interest, in the individual account of a member or former firefighter, as shown on the books and records of the fund.

(2) "Actuarial equivalent" means a benefit that, at the time that it begins being paid, has the same present value as the benefit it replaces, based on the recommendations of the actuary.

(3) "Board of trustees" means the board of firefighters relief and retirement fund trustees of the fund existing pursuant to this Act.

(4) "Board's actuary" means the actuary employed under Section 12.03 of this Act.

(5) "Compensation" means a firefighter's monthly salary, excluding overtime pay, any temporary pay in higher classifications, educational incentive pay, assignment pay, Christmas Day bonus pay, and pay for automobile and clothing allowances.

(6) "Dependent child" or "dependent children" means a deceased member's unmarried children under the age of 22, other than a child who has been determined by the board of trustees not to have been dependent on the deceased member.

(7) "Fire department" means a regularly organized fire department of a city to which this Act applies.

(8) "Firefighter" means a commissioned civil service and Texas state-certified member of a fire department.

(9) "Fund" means the firefighters relief and retirement fund existing pursuant to this Act.

(10) "Internal Revenue Code" means the Internal Revenue Code of

1986.

(11) "Member" means any firefighter or retiree included in a fund under this Act.

(12) "Retiree" means a person who has retired under Article 5 or 6 of this Act and is receiving or is entitled to receive an annuity from the fund.

(13) "Spouse" means an individual to whom a member is legally married under Subtitle A, Title 1, Family Code, or a comparable law of another jurisdiction, provided that, in the case of an informal marriage in this state, the marriage must be evidenced by a declaration of informal marriage recorded in accordance with Subchapter E, Chapter 2, Family Code.

Sec. 1.03. CONTINUED EXISTENCE. A firefighters relief and retirement fund is continued in existence in each municipality to which this Act applies. The name of the fund shall be the name of the municipality, followed by the words "firefighters relief and retirement fund."

Sec. 1.04. EXEMPTION FROM EXECUTION. All retirement annuity payments, other benefit payments, and a member's accumulated contributions are unassignable and are exempt from execution, garnishment, attachment, and state and local taxation.

Sec. 1.05. AGREEMENT MAY NOT SUPERSEDE THIS ACT. Notwithstanding Section 143.307, Local Government Code, an agreement between a public employer and an association under Subchapter I, Chapter 143, Local Government Code, may not supersede or preempt any provision of this Act and may not increase, diminish, or qualify any right, benefit, privilege, or obligation under this Act.

ARTICLE 2. ADMINISTRATION

Sec. 2.01. RESPONSIBILITY. Each fund established under this Act is a trust. The board of trustees is responsible for the administration of the fund.

Sec. 2.02. COMPOSITION OF BOARD. The board of trustees is composed of:

(1) the mayor of the municipality;

(2) the city treasurer or, if there is no treasurer, the person who by law, charter provision, or ordinance performs the duty of city treasurer; and

(3) three members of the fund to be selected by vote of the firefighters and retirees in the manner provided by this Act.

Sec. 2.03. ELECTED MEMBERS OF BOARD. (a) The elected members

of the board of trustees shall be elected and hold office in accordance with this section.

(b) Between November 1 of each year and the first Monday in January of the following year, the board of trustees shall hold an election to elect one member of the board of trustees. If only one firefighter or retiree is nominated for a position under Subsection (c) of this section, instead of holding an election, the board of trustees may appoint the sole nominated candidate at the first board meeting in January. The board shall adopt procedures for the appointment of a sole nominated candidate under this subsection. A board member appointed under this subsection is considered elected for purposes of this Act.

(c) Each election is by secret written ballot on a date the board of trustees determines. Only persons who have been nominated may be listed on the written ballot. Nominations may be made in person, by mail, or by telephone to the office of the fund and must be received between September 1 and September 15.

(d) The board of trustees shall certify the results of each election. A newly elected board member takes office at the first board meeting in January.

(e) The elected members of the board of trustees hold office for staggered terms of three years, with the term of one trustee expiring each year. Elected members of the board of trustees shall serve during the term for which they are elected and until their successors are elected and have qualified, unless a vacancy results because of death, resignation, or removal.

(f) A vacancy in the position of an elected member of the board of trustees shall be filled for the remainder of that person's term at an election to be held on a date selected by the board of trustees that must be within 60 days after the date of the event that caused the vacancy.

(g) The firefighter or retiree receiving the highest number of votes cast in an election under this section is elected, except that if no person receives a majority of the votes cast, a runoff election shall be held between the two persons receiving the highest number of votes. A runoff election is held on a date determined by the board of trustees, and the person receiving the higher number of votes in the runoff election is elected.

(h) The administrative expenses of an election under this section may be paid from the assets of the fund. Assets of the fund

may not be used to pay campaign expenses incurred by or for a member. Administrative office supplies and equipment belonging to the fund may not be used to assist any candidate or person seeking to assist a candidate for a position on the board of trustees.

Sec. 2.04. COMPENSATION. A member of the board of trustees may not receive compensation for service on the board.

Sec. 2.05. OFFICERS. The mayor is the presiding officer and the city treasurer is the secretary-treasurer of the board of trustees. The board shall elect annually from its membership an alternate presiding officer who shall preside in the absence or disability of the mayor.

Sec. 2.06. QUORUM AND VOTING. Each member of the board of trustees is entitled to one vote. A majority vote of members of the board of trustees attending a meeting at which a quorum is present is necessary for a decision of the board. A resolution or order of the board of trustees must be made by a vote recorded in the minutes of its proceedings.

Sec. 2.07. MEETINGS; MINUTES. The board of trustees shall hold regular monthly meetings at a time and place that it designates and may hold special meetings on the call of the presiding officer or alternate presiding officer. The board of trustees shall keep accurate minutes of its meetings and records of its proceedings.

Sec. 2.08. ADMINISTRATION OF FUNDS. The board of trustees shall:

(1) keep separate from all other municipal funds all money and other assets it receives for the benefit of the fund;

(2) keep a record of all claims, receipts, and disbursements and make disbursements only on vouchers signed by such persons as the board of trustees designates by resolution; and

(3) publish annually a report containing a balance sheet showing the financial and actuarial condition of the fund, a statement showing receipts and disbursements during the year covered by the report, and such additional matters as may be determined appropriate by the board of trustees.

Sec. 2.09. DETERMINATION BY BOARD. The board of trustees is authorized to hear and determine all matters regarding:

(1) eligibility of any person to participate in a fund under this Act;

(2) eligibility of any person to receive a service, disability, or survivor's benefit and the amount of that benefit; and

(3) whether a child or a parent of a deceased member was dependent on the member for financial support.

Sec. 2.10. TESTIMONY. The board of trustees may compel witnesses to attend and testify before it regarding all matters related to the fund in the same manner as is provided for taking of testimony before notaries public, and its presiding officer and alternate presiding officer have the authority to administer oaths to witnesses.

Sec. 2.11. RULEMAKING. The board of trustees shall adopt rules and perform reasonable activities it considers necessary or desirable for the efficient administration of the fund and to maintain the qualified status of the fund under Section 401(a) of the Internal Revenue Code.

Sec. 2.12. GIFT, GRANT, OR BEQUEST. The board of trustees may accept for the use and benefit of the fund a gift, grant, or bequest of money or securities from any source.

Sec. 2.13. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS, RETIREES, ANNUITANTS, OR BENEFICIARIES. (a) Information contained in records in the custody of the fund concerning an individual member, retiree, annuitant, or beneficiary is confidential under Section 552.101, Government Code, and may not be disclosed in a form identifiable with a specific individual unless:

(1) the information is disclosed to:

(A) the individual or the individual's attorney, guardian, executor, administrator, conservator, or other person who the administrator of the fund determines is acting in the interest of the individual or the individual's estate;

(B) a spouse or former spouse of the individual after the administrator of the fund determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the fund;

(C) a governmental official or employee after the administrator of the fund determines that disclosure of the information requested is reasonably necessary to the performance of the duties of the official or employee; or

(D) a person authorized by the individual in writing to receive the information; or

(2) the information is disclosed pursuant to a subpoena and the administrator of the fund determines that the individual will have a reasonable opportunity to contest the subpoena.

(b) This section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree, deceased member or retiree, or beneficiary of the fund.

(c) A determination and disclosure under Subsection (a) may be made without notice to the individual member, retiree, annuitant, or beneficiary.

ARTICLE 3. MEMBERSHIP

Sec. 3.01. GENERAL REQUIREMENT. A person who begins service as a firefighter in a municipality to which this Act applies and who is not ineligible for membership in the fund becomes a member of the fund as a condition of that person's appointment.

Sec. 3.02. APPOINTMENT TO CHIEF. A firefighter who is a member of the fund continues to be a member if the firefighter is appointed to the rank of chief or the rank immediately below chief.

Sec. 3.03. TERMINATION OF MEMBERSHIP. A person ceases to be a member of the fund on the earlier of the date of:

(1) death; or

(2) refund or escheat of the person's contributions while absent from service.

ARTICLE 4. SERVICE CREDIT

Sec. 4.01. GENERAL PROVISION. One month of service credit is earned in the fund for each month in which a member of the fund makes a contribution required under this Act.

Sec. 4.02. MILITARY SERVICE. A member of the fund retains all accumulated service credit and is allowed service credit for each month during which the member leaves employment with the fire department and performs active duty service in the armed forces or the armed forces reserves of the United States or their auxiliaries, except that:

(1) the military service credit may not be for more than five years and the person must return to service with the fire department not later than the 180th day after the date of discharge or release from military service or from hospitalization continuing after discharge for a period of not more than one year;

(2) the member must leave the member's contributions in the fund during the period of absence; and

(3) the member must file a written application with the fund for the military service credit, accompanied by satisfactory proof of the member's military service.

Sec. 4.03. FORMER SERVICE. A member of the fund who is absent

from service with the fire department for reasons other than military service retains all accumulated service credit for the member's former service with the fire department, but receives no credit for the period of absence, if:

(1) the length of the absence is less than five years; and

(2) the member leaves the member's contributions in the fund during the absence.

Sec. 4.04. OTHER ABSENCE. If a member of the fund who has less than 10 years of service credit in the fund is absent from service with the fire department for at least five years for any reason other than as provided by Section 4.02 of this Act, the fund shall refund the member's accumulated contributions and cancel the person's credited service.

Sec. 4.05. PERIODS OF DISABILITY. A firefighter may not be granted service credit for time during which the person receives a disability benefit from the fund.

ARTICLE 5. SERVICE RETIREMENT BENEFITS

Sec. 5.01. NORMAL SERVICE RETIREMENT ELIGIBILITY. A member is eligible to retire and receive a normal service retirement annuity if the member:

(1) has attained the age of 50 years and has at least 10 years of service credit in the fund; or

(2) has at least 25 years of service credit, regardless of age.

Sec. 5.02. CONTINUED SERVICE. A member who continues to serve actively in the fire department after the date the member becomes eligible to retire shall continue to make contributions to the fund and accrue service credit until the date of actual retirement.

Sec. 5.03. DETERMINATION OF AVERAGE MONTHLY SALARY. A member's average monthly salary is computed as the average of the member's compensation for the 36 months of highest compensation during the member's credited service. If a person has less than 36 months of credited service, the average monthly salary is computed, as if the member had been employed by the fire department for 36 months, by attributing to a period that is immediately before the member's employment and that is equal to the difference between the number of months the member has been employed by the fire department and 36 months of compensation the member would have received at the rank the member held when the person became a member.

Sec. 5.04. NORMAL SERVICE RETIREMENT BENEFIT. (a) The service retirement annuity of a person who retires under Section 5.01

of this Act on or after January 1, 1995, is a monthly payment that is equal to three percent of the member's average monthly compensation multiplied by the member's number of years of service credit and any fraction of a year of service credit.

(b) The three percent factor used in this section may be changed to some other percent if the change:

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

(2) is approved by the board of trustees;

(3) applies to one or any combination of the following groups:

(A) firefighters who are employed on an active, full-time basis in the fire department at the time of the change;

(B) firefighters who begin service with the fire department after the change becomes effective; and

(C) members who retire under Section 5.06 of this Act after the change becomes effective; and

(4) does not reduce a member's benefit for service credit accumulated before the date of the change.

(b-1) In determining whether to approve an increase in the factor under Subsection (b) of this section, the board's actuary shall take into consideration whether the fund has reserves sufficient to enable the payment of a cost-of-living adjustment under Section 9.04(a) of this Act to all current members and survivors at a level that is equal to the average percentage increase in the Consumer Price Index for All Urban Consumers as determined by the United States Department of Labor for the 10 annual periods preceding the proposed effective date of the change.

(c) The service retirement annuity of a person who retired before January 1, 1995, is a monthly payment based on the benefit formula in effect at the time of the person's retirement, together with any increases for retirees approved by the board of trustees after the person's retirement.

Sec. 5.05. EARLY RETIREMENT. (a) A member is eligible to retire and receive a normal service retirement annuity if the member, while serving as a firefighter in the fire department:

(1) has attained the age of 45 years and has at least 10 years of service credit in the fund; or

(2) has at least 20 years of service credit, regardless of age.

(b) The retirement annuity of a person who retires under this section after September 1, 1997, is the same as for normal service

retirement, but may not be increased under Section 9.04 of this Act until the person would have met the requirements of Section 5.01 of this Act if the person had remained in active service as a firefighter.

Sec. 5.06. ELIGIBILITY AFTER 10 YEARS OF SERVICE. (a) A member may terminate employment with the fire department and later retire and receive a service retirement benefit if, at the time of the member's retirement:

(1) the member has accumulated at least 10 years of service credit in the fund and made required contributions to the fund for at least 10 years;

(2) the member does not withdraw the member's contributions from the fund at the time of or after the termination of employment; and

(3) the member has either attained 50 years of age or would have accumulated at least 25 years of service credit if the member had not terminated employment with the fire department.

(b) The retirement benefit payable to a member on retirement under this section is the service retirement benefit described by Section 5.04 of this Act, computed on the basis of the formula in effect at the time of the member's retirement under this Act.

Sec. 5.07. WITHDRAWAL OF CONTRIBUTIONS. A person who has terminated employment with the fire department and left the person's contributions with the fund under Section 5.06 of this Act may at any time apply for and receive the person's accumulated contributions under Section 9.06 of this Act, with the effect provided by that section. If a person eligible for a refund of contributions elects to have all or a portion of the accumulated contributions paid directly to an eligible retirement plan and specifies the eligible retirement plan to which the contributions are to be paid on a form approved for that purpose by the fund, the fund shall make the payment in the form of a direct trustee-to-trustee transfer but is under no obligation to determine whether the other plan in fact is an eligible retirement plan for that purpose.

ARTICLE 6. DISABILITY RETIREMENT BENEFITS

Sec. 6.01. INITIAL ELIGIBILITY FOR DISABILITY RETIREMENT. A firefighter is eligible to retire and receive a disability retirement annuity if:

(1) application for retirement is made by the member or the member's legal representative or if the board of trustees determines that, although no application has been filed, retirement is for the

good of the fire department;

(2) the medical board certifies that the member is unable to perform the duties of the member's occupation as a firefighter and sends the member's application to the board of trustees; and

(3) the board of trustees approves the disability retirement.

Sec. 6.02. NO REQUIREMENT OF ON-THE-JOB INJURY. To qualify for disability retirement, a person's disability does not have to be incurred in connection with the person's performance of duties as a firefighter and may be incurred while employed by some person or entity other than the fire department.

Sec. 6.03. AMOUNT OF DISABILITY BENEFIT. Subject to adjustment under Section 6.05 of this Act, the disability retirement benefit payable to a member is the normal service retirement benefit described by Section 5.04 of this Act, but not less than the member would have received after 20 years of service credit.

Sec. 6.04. TERMINATION DURING FIRST 2-1/2 YEARS. If, during the first 2-1/2 years of disability retirement, a retiree recovers to the extent that the person is able to perform the duties of the person's job as a firefighter, the board of trustees may terminate the retirement benefit and restore the person to active service at not less than the same rank the person held at the time of disability retirement.

Sec. 6.05. CONTINUATION AFTER FIRST 2-1/2 YEARS. After a retiree has received disability retirement benefits from the fund for at least 2-1/2 years, the board of trustees from time to time may review the situation of the person to determine the status of the disability. The board of trustees may ask the medical board for its opinion of the status of the disability. If the board of trustees determines that the person has recovered to the extent that the person is able to be employed, the board of trustees may:

(1) continue to pay the full disability retirement benefit;

(2) pay a reduced disability retirement benefit in an amount commensurate with the person's disability as determined by the board; or

(3) discontinue payment of a disability benefit.

Sec. 6.06. APPLICATION; PHYSICIAN'S STATEMENT; MEDICAL BOARD ACTION. (a) An application for disability retirement must be accompanied by a written statement, on a form approved by the board of trustees, signed by a physician of the member's choice. The member shall pay any costs of or fees for obtaining the physician's

statement and shall file the application and statement with the fund. As soon as possible after the application is filed, the medical board shall evaluate the medical and other pertinent information concerning the member's application.

(b) The medical board may require any firefighter to obtain additional medical opinions before issuing a certificate that the member is unable, as a result of physical or mental disability, to perform the duties of the member's occupation as a firefighter. The fund shall pay any costs or fees of examination by a person other than the member's own physician.

(c) A certificate from the medical board may include a finding by that board that the disability is likely to be temporary or is likely to be total and permanent.

(d) The board of trustees at any time may require a person receiving a disability retirement benefit under this Act to appear and undergo a medical examination by a physician selected by the board of trustees or the medical board for that purpose. The result of the examination and report by that physician shall be considered by the board of trustees in determining whether the disability retirement benefit will be continued, increased, if less than the maximum provided by this Act, decreased, or discontinued.

Sec. 6.07. EVIDENCE OF INCOME OF DISABILITY RETIREE. The board of trustees may require a person receiving disability retirement benefits under this Act to provide evidence of annual income. The board of trustees may consider the evidence in any determination of ability to be employed. The board of trustees may reduce or discontinue disability retirement benefit payments to a person who fails or refuses to produce information which the board of trustees has required under this section.

Sec. 6.08. REINSTATEMENT; SERVICE RETIREMENT ELIGIBILITY. (a) The board of trustees may reinstate any disability retirement benefit that previously has been terminated or reduced if the disabled firefighter's condition has worsened as a result of the same cause for which the person was previously granted disability retirement.

(b) If a person's disability retirement benefit is reduced or discontinued and the person is or subsequently becomes eligible for service retirement under other provisions of this Act, the person is entitled to the service retirement benefit on meeting all requirements for that benefit, reduced by the amount of any

disability retirement benefit that the person continues to receive from the fund.

Sec. 6.09. NO BENEFITS WHILE RECEIVING SALARY. A person may not receive disability retirement benefits for any period during which the person receives full salary or compensation from the fire department, including payments received while on sick leave.

ARTICLE 7. SURVIVOR'S BENEFITS

Sec. 7.01. SURVIVING SPOUSE OF FIREFIGHTER. If a firefighter dies before retirement, the firefighter's surviving spouse is entitled to receive an immediate monthly benefit from the fund of 75 percent of the service retirement benefit that the firefighter would have received if the firefighter had retired on the date of death, but not less than 75 percent of the monthly payment the decedent would have received based on 20 years of service credit.

Sec. 7.02. SURVIVING SPOUSE OF RETIREE. (a) On the death of a retiree, the retiree's surviving spouse is entitled to receive an immediate monthly benefit from the fund of 75 percent of the retirement benefit that was being paid to the retiree if the spouse:

(1) was married to the retiree at the time of the retiree's retirement; or

(2) married the retiree after the retiree's retirement and was married to the retiree for at least 24 consecutive months.

(b) For purposes of Subsection (a)(1) of this section, with respect to an informal marriage established in this state, a surviving spouse is considered married to a retiree as of the date a declaration of informal marriage was recorded in accordance with Subchapter E, Chapter 2, Family Code.

Sec. 7.03. SURVIVING SPOUSE OF FORMER FIREFIGHTER. (a) An immediate monthly benefit is payable to the surviving spouse of a former firefighter who:

(1) before termination of employment with the fire department had accumulated at least 10 years of service credit in the fund and had made required contributions to the fund for a period of at least 10 years; and

(2) did not withdraw the member's contributions from the fund at the time of or after the termination of employment.

(b) If the former firefighter died before attaining 50 years of age, the benefit is payable only if the spouse was married to the former firefighter on the date of the former firefighter's termination of employment with the fire department.

(c) If the former firefighter died after attaining 50 years of age, the benefit is payable only if the spouse was married to the former firefighter when the member attained 50 years of age.

(d) The amount of the benefit payable under this section is 75 percent of the retirement benefit the former firefighter either was receiving or was entitled to receive at age 50.

Sec. 7.04. DURATION OF SPOUSE'S BENEFIT. The benefit payable to a surviving spouse is payable throughout the surviving spouse's remaining lifetime. A surviving spouse whose benefit was terminated under this section as it existed before September 1, 1997, is entitled to receive a benefit beginning on the date the surviving spouse files an application for resumption of benefits with the board of trustees, but is not entitled to receive a benefit for the period in which the benefit was terminated under the former law.

Sec. 7.05. SURVIVING CHILDREN'S BENEFIT. (a) On the death of a member, if there is no surviving spouse, a benefit is payable to the decedent's surviving dependent children, if any. The total monthly benefit payable under this subsection is 75 percent of the monthly payment that the decedent would have received under the service retirement benefit described by Section 5.04 of this Act, but not less than 75 percent of the monthly payment the decedent would have received based on 20 years of service credit. If there is more than one dependent child of the decedent, each dependent child is entitled to receive an equal share of the total monthly payment under this subsection.

(b) On the death of a member under this Act, if there is a surviving spouse, a benefit is payable to each of the decedent's surviving dependent children, if any. The monthly amount of the benefit payable to each child is 15 percent of the monthly payment that the decedent would have received under the service retirement benefit described by Section 5.04 of this Act, but not less than 15 percent of the monthly payment the decedent would have received based on 20 years of service credit. If the decedent left more than five surviving dependent children, the monthly benefit payable to each dependent child shall be reduced so that the total monthly benefit payable under this subsection does not exceed the total monthly benefit that would have been payable if the decedent had left no surviving spouse.

(c) Payments by the fund to a dependent child under this section shall cease on the earliest of the date of the child's death,

marriage, or attainment of age 22.

Sec. 7.06. PAYMENTS TO DEPENDENT PARENTS. If a deceased member leaves no surviving spouse, no surviving designated beneficiary, and no surviving children entitled to receive a benefit under this Act but is survived by one or more dependent parents, the dependent parent, or one of the surviving parents designated by the board of trustees, is entitled to receive a monthly benefit payment equal to the monthly amount that would have been payable to a surviving spouse of the deceased. All payments under this section cease on the death of the surviving dependent parent.

Sec. 7.07. INCREASE IN SURVIVORS' BENEFITS. On the affirmative vote of a majority of the members of the board of trustees either or both of the following actions may be taken:

(1) benefits to dependent children may be increased to an amount not to exceed the amount recommended by the board's actuary; or

(2) benefits to surviving spouses may be increased to an amount not to exceed the maximum approved by the actuary.

Sec. 7.08. PERSON CAUSING DEATH OF MEMBER OR BENEFICIARY. (a) A benefit payable on the death of a member or beneficiary may not be paid to a person convicted of causing that death, but instead a benefit is payable as provided by Subsection (c) of this section to a person who would be entitled to the benefit had the convicted person predeceased the decedent. If no person would be entitled to the benefit, the benefit is payable to the decedent's estate.

(b) The fund is not required to pay a benefit under Subsection (a) of this section unless it receives actual notice of the conviction of the person who would have been entitled to the benefits. However, the fund may delay payment of a benefit payable on the death of a member pending the results of a criminal investigation and of legal proceedings relating to the cause of death.

(c) The benefit payable under Subsection (a) of this section is a refund of the member's accumulated contributions and interest, reduced by any annuity payments that may have been made as a result of the member's retirement.

(d) For the purposes of this section, a person has been convicted of causing the death of a member or beneficiary if the person:

(1) has pleaded guilty or nolo contendere to or has been found guilty by a court of an offense at the trial of which it is

established that the person's intentional, knowing, or reckless act or omission resulted in the death of the person who was the member or beneficiary, regardless of whether sentence is imposed or probated; and

(2) has no appeal of the conviction pending and the time provided for appeal has expired.

Sec. 7.09. SURVIVING BENEFICIARY OF CERTAIN UNMARRIED MEMBERS. (a) On the death of a retiree or of a member who is eligible for retirement but has not retired, a benefit is payable under this section if:

(1) the retiree or member designated a beneficiary to receive the benefit payable under this section on a form filed with the fund; and

(2) this Act does not otherwise provide a benefit payable to a surviving spouse or child of the member or retiree.

(b) The benefit payable under this section is an immediate monthly benefit from the fund of 75 percent of the amount of the:

(1) retirement benefit that was being paid to the retiree; or

(2) normal service retirement benefit that the member would have received if the member had retired on the date of death.

(c) If the designated beneficiary of a retiree or member is 10 or more years younger than the retiree or member at the time of the retiree's or member's death, the amount of the benefit payable under Subsection (b) of this section shall be reduced to the actuarial equivalent of the benefit that would have been payable if the beneficiary and the retiree or member were the same age.

(d) The board of trustees may adopt rules to establish procedures for and requirements governing a member's designation of a beneficiary under this section.

ARTICLE 8. DEFERRED RETIREMENT OPTION PLAN

Sec. 8.01. MEMBER REMAINING IN ACTIVE SERVICE. In lieu of either leaving active service and beginning to receive a service retirement annuity under Section 5.01 of this Act or remaining in active service and continuing to accrue additional service credit under Section 5.02 of this Act, a member who is eligible to receive a normal service retirement benefit under Section 5.01 of this Act may remain in active service, become a participant in the deferred retirement option plan ("DROP") in accordance with Sections 8.02 and 8.03 of this Act, and defer the beginning of the person's retirement annuity. Once an election to participate in the DROP has been made,

the election continues in effect as long as the member remains in active service as a firefighter. When the member leaves active service, the member may apply for a service retirement annuity under Section 5.01 of this Act.

Sec. 8.02. ELECTION TO PARTICIPATE IN DROP. The election to participate in the DROP shall be made in accordance with procedures adopted by the board of trustees. The election may be made at any time on or after the date the member becomes eligible for normal service retirement under Section 5.01 of this Act or early retirement under Section 5.05 of this Act and becomes effective on the first day of the first month after the date of the election. At the same time that a member makes an election to participate in the DROP, the member must agree in writing to terminate service with the fire department on a date not later than the seventh anniversary of the effective date of the election under this section. An agreement to terminate service is binding on the member and the fire department, except that the member may terminate active service at any time before the date selected. An election to participate in the DROP has no effect on either the municipality's or the member's contributions under Section 10.01 of this Act.

Sec. 8.03. CREDITS TO MEMBER'S DROP ACCOUNT. Each month after a member makes an election to participate in the DROP and until the member's retirement, the board of trustees shall cause an amount equal to the retirement annuity that the member would have received under Section 5.04 of this Act for that month if the member had left active service and been granted a retirement annuity on the effective date of the election under Section 8.02 of this Act to be credited to a separate DROP account maintained within the fund for the benefit of the member. The member's contributions under Section 10.01(d) of this Act made after the effective date of the election to participate in the DROP shall also be credited to the member's DROP account. Amounts held in a member's DROP account shall be credited at the end of each calendar month with interest at a rate equal to one-twelfth of five percent until the member's retirement.

Sec. 8.04. AMOUNT OF CREDITS TO MEMBER'S DROP ACCOUNT. The amount credited monthly to the member's DROP account:

(1) shall be increased as a result of any increase in the formula used in computing service retirement benefits under Section 5.04 of this Act that occurs after the effective date of the member's election to participate in the DROP but before the effective date of

the member's retirement;

(2) shall be increased by any annual cost-of-living adjustments under Section 9.04 of this Act that occur between the effective date of the member's election to participate in the DROP and the effective date of the member's retirement but only as to amounts credited to the member's DROP account after a cost-of-living adjustment; and

(3) is subject to the limitations prescribed by Section 9.03 of this Act.

Sec. 8.05. DISTRIBUTIONS FROM MEMBER'S DROP ACCOUNT. (a) On leaving active service as a firefighter and beginning to receive a retirement annuity, a member who participates in the DROP shall begin to receive the amount credited to the person's DROP account under either of the following methods of distribution selected by the member:

(1) a single-payment distribution made at a time selected by the member but not later than April 1 of the year after the member attains 70-1/2 years of age; or

(2) in not more than four payments, which may be equal or unequal as the member may determine, all of which must occur not later than April 1 of the year after the member attains 70-1/2 years of age.

(b) The DROP account balance of a member shall be credited at the end of each calendar month with interest at a rate equal to one-twelfth of five percent.

(c) A member may not receive a distribution from the member's DROP account before termination of active service as a firefighter. A member shall notify the fund in writing, on a form that the board of trustees may prescribe, at least 30 days before each distribution made under this section.

(d) The board of trustees may adopt rules that modify the availability of distributions under Subsection (a) of this section, provided that the modifications do not:

(1) impair the distribution rights under that subsection; or

(2) cause distributions to occur later than required under Section 401(a)(9), Internal Revenue Code of 1986.

Sec. 8.06. ESTABLISHMENT OF DROP ACCOUNT AT RETIREMENT. (a) In lieu of electing to participate in the DROP before actual retirement, a member who is eligible for normal service retirement or early retirement and who terminates or has terminated active service

as a firefighter may establish a DROP account under this section.

(b) A member who is eligible to receive a service retirement benefit under Section 5.06 of this Act may establish a DROP account under this section on retiring under Section 5.06 of this Act.

(c) If a member elects to participate in the DROP under this section:

(1) the board of trustees shall cause to be credited to a DROP account maintained within the fund for the benefit of that person an amount equal to the credits that the member's DROP account would have received, including interest, if the member had established the DROP account after becoming eligible for service retirement, but not more than seven years before the effective date of the person's retirement;

(2) the date used in computations under Subdivision (1) of this section as if the member had established the DROP account on that date is the effective date of the member's election to participate in the DROP;

(3) the member will receive payments from the member's DROP account as the member may select under Section 8.05 of this Act; and

(4) the member's DROP account shall be credited with interest as provided by Section 8.05 of this Act.

(d) If a member who did not establish a DROP account under this section but was eligible to do so dies before retirement, the surviving spouse, if any, of that member may elect to participate in the DROP if the surviving spouse has not received any benefit payments under Section 7.01 of this Act. If a surviving spouse makes an election under this subsection:

(1) the board of trustees shall cause to be paid to the surviving spouse in a lump sum, as soon as administratively possible after the fund receives notice of the election, an amount equal to the credits that the member's DROP account would have received, including interest, if the member had established the DROP account after becoming eligible for service retirement, but not more than seven years before the date of the member's death; and

(2) the amount of the benefit payable to the surviving spouse under Section 7.03 of this Act is 75 percent of the benefit the member would have been eligible to receive if the member had established the DROP account on becoming eligible for service retirement, but not more than seven years before the date of the member's death.

(e) If a member who did not establish a DROP account under this section but was eligible to do so dies before retirement without leaving a surviving spouse, the surviving dependent children, if any, may elect to participate in the DROP if the dependent children have not received any benefit payments under Section 7.05 of this Act. An election under this subsection must be made by all of the surviving dependent children of the member, except that the guardian of any child who is younger than 18 years of age at the time of the election makes a binding election for the child. If the surviving dependent children make an election under this subsection:

(1) the board of trustees shall cause to be paid jointly to the dependent children in a lump sum, as soon as administratively possible after the fund receives notice of the election, an amount equal to the credits the member's DROP account would have received, including interest, if the member had established the DROP account after becoming eligible for service retirement, but not less than the credits the DROP account would have received, including interest, based on 20 years of service credit; and

(2) the amount of the benefit payable to the dependent children under Section 7.05(a) is 75 percent of the benefit the member would have been entitled to receive if the member had established the DROP account on becoming eligible for service retirement, but based on not less than 20 years of service credit.

Sec. 8.07. PAYMENTS FROM DROP ACCOUNT AT MEMBER'S DEATH. (a) The provisions of Article 7 relating to death benefits of qualified survivors do not apply to amounts credited to a member's DROP account. Instead, a member who participates in the DROP may designate a beneficiary to receive any balance in the member's DROP account at the member's death. The beneficiary designation must be made on a form prescribed by the board of trustees and filed with the fund before the member's death. If the member is married at the time of the designation, designation of a beneficiary other than the member's spouse is valid only if the spouse consents to the designation in writing on the same form that is used to designate the beneficiary. Distributions from a member's DROP account after the death of the member shall be made as provided by this section.

(b) If a member who participates in the DROP dies before distribution of the member's entire DROP account, distributions to the designated beneficiary will begin not more than one year after the date of the member's death and shall be made either as a single-

payment distribution of the member's DROP account balance or in not more than four equal annual installments over a period of not more than 37 months.

(c) If the member has not designated a beneficiary to receive distributions from the member's DROP account or if the person so designated does not survive the member by at least 72 hours, the member's DROP account shall be distributed in a single-sum payment as soon as administratively possible after the member's death to any surviving spouse who survives the member by at least 72 hours, if any, or to the member's estate if there is no surviving spouse.

Sec. 8.08. SUBSEQUENT DISABILITY OF DROP PARTICIPANT. A member who participates in the DROP becomes ineligible for any disability benefits described by Article 6 of this Act. Instead, if the board of trustees determines that the member would have been eligible for disability retirement, the board of trustees shall grant a normal service retirement annuity as described by Section 5.04 of this Act and shall pay the member both the service retirement annuity and a distribution of the DROP account as described by Section 8.05 of this Act.

Sec. 8.09. RETIREMENT BENEFIT PAYABLE TO DROP PARTICIPANT. The retirement benefit payable under Article 5 or 6 of this Act to a person who participates in the DROP:

(1) may not be increased as a result of any increase in the formula used in computing service retirement benefits under Section 5.04 of this Act that occurs after the effective date of the member's election to participate in the DROP;

(2) may not be increased as a result of any increase in the member's compensation that occurs after the effective date of the member's election to participate in the DROP;

(3) shall be increased by any annual cost-of-living adjustments under Section 9.04 of this Act that occur between the effective date of the member's election to participate in the DROP and the effective date of the member's retirement;

(4) may not be increased for additional service credit after the effective date of the member's election to participate in the DROP; and

(5) is subject to the limitations prescribed by Section 9.03 of this Act.

Sec. 8.10. TERMINATION OR MODIFICATION OF DROP BY FUND. If the board's actuary, not sooner than January 1, 2000, certifies to the

board that DROP participation is resulting in a significant actuarial loss to the fund, the board of trustees may:

(1) reduce the interest paid on DROP accounts or take other action that would reduce the future credits to DROP accounts, but only for all DROP accounts that are established after the effective date of the action by the board of trustees; or

(2) terminate the deferred retirement option plan for all members who have not at that time established a DROP account.

ARTICLE 9. MISCELLANEOUS PROVISIONS REGARDING BENEFITS

Sec. 9.01. TIME FOR PAYMENT TO RETIRED MEMBERS. Benefits to a person who retires under this Act are payable on the first day of each month beginning with the month following the month in which the person retires.

Sec. 9.02. TIME FOR PAYMENT TO SURVIVORS; PAYMENT TO ESTATE. Benefits to a surviving spouse, dependent child, or dependent parent under this Act are payable on the first day of each month beginning with the month following the month in which the death of the member or former firefighter occurs. After all payments cease, any amount by which the member's or former firefighter's total accumulated contributions at the date of that person's death exceed the amount of all retirement and death benefits paid by the fund as a result of the person's participation in the fund is payable to the estate of the member or former firefighter.

Sec. 9.03. LIMITATION ON PAYMENT OF BENEFITS. (a) If the amount of any benefit payment under this Act would exceed the limitations provided by Section 415 of the Internal Revenue Code of 1986, and the regulations adopted under that section, the board of trustees shall reduce the amount of the benefit as needed to comply with that section.

(b) A person's vested accrued benefit in effect on September 1, 1995, may not be reduced under this section.

Sec. 9.04. COST-OF-LIVING ADJUSTMENT; OTHER ADJUSTMENTS. (a) Subject to this section and except as provided by Section 5.05 of this Act, a person receiving a retirement or survivor's benefit under this Act is entitled each calendar year to a cost-of-living adjustment of that person's benefit calculated in accordance with this section.

(a-1) The annual cost-of-living adjustment under this section:

(1) is based on the collective adjustment amount calculated in accordance with Subsection (a-2) of this section and allocated

among persons eligible for an adjustment under this section in a manner and in an amount determined by the board of trustees;

(2) may take effect at any time during a given calendar year, as determined by the board of trustees; and

(3) may not reduce a person's benefit to an amount less than the person received when the benefit first was paid to that person.

(a-2) The collective adjustment amount described by Subsection (a-1) of this section:

(1) is an amount equal to the actuarial value, as determined by the board's actuary based on the interest and mortality assumptions adopted by the board of trustees for the most recent actuarial valuation of the fund, of the percentage increase in the Consumer Price Index for All Urban Consumers as determined by the United States Department of Labor for the applicable determination period ending in a calendar month that precedes by not more than four months the month in which the cost-of-living adjustment is to take effect, multiplied by the total amount of benefits payable in the month immediately preceding the date an adjustment is to take effect to persons who are eligible to receive an adjustment under this section; and

(2) if applicable:

(A) is reduced by an amount that the board's actuary determines is necessary to maintain the financial stability of the fund; or

(B) is increased in accordance with Subsection (b) of this section.

(a-3) For purposes of Subsection (a-2) of this section, the applicable determination period is the shorter of:

(1) 12 months; or

(2) the period since the last adjustment under this section.

(a-4) In determining whether to reduce the collective adjustment amount under Subsection (a-2) of this section, the board's actuary may not take into consideration the cost of future adjustments under this section.

(b) The board of trustees may increase the collective adjustment amount under Subsection (a-2) of this section if:

(1) the board's actuary has advised the board of trustees that the increase would not impair the financial stability of the

fund; and

(2) the increase has been approved by the affirmative vote of a majority of the board of trustees.

(b-1) In determining whether an adjustment would impair the financial stability of the fund under Subsection (b) of this section, the board's actuary shall take into consideration the cost of future adjustments under this section.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 707, Sec. 10, eff. September 1, 2009.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 707, Sec. 10, eff. September 1, 2009.

Sec. 9.05. NO INTEGRATION WITH SOCIAL SECURITY. A benefit payable under this Act may not be integrated with benefits payable under the federal Social Security Act, as amended (42 U.S.C. Section 301 et seq.), and benefits payable under the Social Security Act may not be taken into account when determining the amount of benefits to which a person is entitled under this Act.

Sec. 9.06. WITHDRAWAL OF CONTRIBUTIONS. (a) A living person who has terminated all employment with the fire department and who has not retired may withdraw, on application, all of the accumulated contributions credited to that person's individual account with the fund in excess of the amount of benefits that the person previously has received from the fund. On withdrawal, the person's account will be closed and all service credit the person has accumulated will be canceled.

(b) If a member dies before retirement and no person is entitled to a survivor's benefit under this Act, the person's estate may, after application, withdraw all of the accumulated contributions credited to that person's individual account with the fund in excess of the amount of benefits that the person previously has received from the fund.

Sec. 9.07. ESCHEAT OF CONTRIBUTIONS. If an application for withdrawal of contributions under Section 9.06 of this Act from or on behalf of a person who has ceased to be an employee of the fire department or the person's estate has not been received by the fund before the seventh anniversary of the termination of the person's employment with the fire department for a reason other than retirement, the person's accumulated contributions shall escheat to the fund. If the person or the person's estate later applies for the contributions, the fund shall refund the contributions regardless of

the earlier escheatment.

Sec. 9.08. INSUFFICIENT FUNDS; PRORATED REDUCTION IN BENEFITS. If for any reason the funds available for any purpose covered by this Act become insufficient to pay in full any benefit payable under this Act, all benefits being paid by the fund shall be reduced pro rata for the time the deficiency exists.

Sec. 9.09. REDUCTION IN BENEFIT PAYMENTS ON REQUEST. If a person receiving a benefit from the fund requests in writing that the amount of the benefit be reduced to a specified monthly amount, the fund will pay the lesser amount specified in the request. If the person subsequently requests in writing that the benefit be increased to any specified amount that does not exceed the amount originally payable, the fund will pay the increased amount specified. If a person receiving a benefit from the fund requests in writing that payment of the benefit be discontinued, the fund shall discontinue payment of the benefit. If the person subsequently requests that payment of the benefit be resumed, the fund shall resume payment of the benefit. Any amounts not paid by the fund pursuant to a request under this section are forfeited to the fund and are not recoverable by any person.

Sec. 9.10. OPTIONAL RETIREMENT ANNUITY. (a) An optional retirement annuity is an annuity that is certified by the board's actuary to be the actuarial equivalent of the annuity provided under Section 5.04 of this Act and the survivor's benefits provided under Article 7 of this Act. An optional retirement annuity is payable throughout the life of the retiree.

(b) Instead of the annuity payable under Section 5.04 of this Act, a member who retires may elect to receive an optional retirement annuity approved by the board of trustees under this section.

(c) The survivor's benefits provided under Article 7 of this Act are not payable on the death of a retiree who elects an optional retirement annuity under this section.

(d) The board of trustees by rule may provide that:

(1) an optional retirement annuity is payable after a member's death throughout the life of a person designated by the member; or

(2) if a retiree dies before a fixed number of monthly annuity payments are made, the remaining number of payments are payable to the retiree's designated beneficiary or, if a designated beneficiary does not exist, to the retiree's estate.

(e) To elect an optional retirement annuity, a member must make

the election and designate a beneficiary on a form prescribed by the board of trustees. The member must file the form with the board on or before the effective date of the member's retirement.

(f) Except as provided by Subsections (g), (h), and (i) of this section, if a member elects an optional retirement annuity that, on the member's death, pays to the member's spouse an amount that is less than 75 percent of the annuity that is payable during the joint lives of the member and the member's spouse, the spouse must consent to the election. The spouse's consent must be in writing and witnessed by an officer or employee of the fund or acknowledged by a notary public.

(g) If a member's spouse has been adjudicated incompetent, the consent required under Subsection (f) of this section may be given by the spouse's guardian.

(h) If a physician determines that a member's spouse is not mentally capable of managing the spouse's affairs, the consent required under Subsection (f) of this section may be given by the member if the member would be qualified to serve as a guardian of the spouse and the board of trustees determines that a guardianship of the estate is not necessary.

(i) Spousal consent under Subsection (f) of this section is not required if the board of trustees determines that:

(1) a spouse does not exist;

(2) the spouse cannot be located;

(3) the first anniversary of the marriage will not occur before the date the annuity first becomes payable; or

(4) a former spouse is entitled to receive a portion of the member's optional retirement benefit under a qualified domestic relations order.

ARTICLE 10. COLLECTION OF CONTRIBUTIONS; INTEREST

Sec. 10.01. MUNICIPAL AND MEMBER CONTRIBUTIONS. (a) Each municipality in which a fire department to which this Act applies is located shall appropriate and contribute to the fund an amount equal to a percentage of the compensation of all members during that month as follows:

(1) 19.05 percent, beginning on the first pay date following September 30, 2010, through the pay date immediately preceding September 30, 2011;

(2) 20.05 percent, beginning on the first pay date following September 30, 2011, through the pay date immediately

preceding September 30, 2012;

(3) 21.05 percent, for 24 pay dates of the municipality beginning on the first pay date following September 30, 2012; and

(4) 22.05 percent, for all pay dates of the municipality that follow the 24 pay dates referenced in Subdivision (3) of this subsection.

(b) Each firefighter shall pay into the fund each month a percentage of the firefighter's compensation for that month as follows:

(1) 15.70 percent, for the pay dates of the municipality following September 30, 2010, through the pay date immediately preceding September 30, 2011;

(2) 16.20 percent, beginning on the first pay date of the municipality following September 30, 2011, through the pay date immediately preceding September 30, 2012;

(3) 16.70 percent, beginning on the first pay date of the municipality following September 30, 2012, through the pay date immediately preceding September 30, 2013;

(4) 17.20 percent, beginning on the first pay date of the municipality following September 30, 2013, through the pay date immediately preceding September 30, 2014;

(5) 17.70 percent, beginning on the first pay date of the municipality following September 30, 2014, through the pay date immediately preceding September 30, 2015;

(6) 18.20 percent, beginning on the first pay date of the municipality following September 30, 2015, through the pay date immediately preceding September 30, 2016; and

(7) 18.70 percent, for the first pay date of the municipality following September 30, 2016, and all subsequent pay dates of the municipality.

(c) The governing body of each municipality may authorize the municipality to contribute a portion of the contribution required of each firefighter under this section. In that event:

(1) the municipality shall appropriate and contribute to the fund each month at the higher percentage of compensation necessary to make all contributions required and authorized to be made by the municipality under this section; and

(2) each firefighter's individual account with the fund shall be credited each month as if the firefighter had made the entire contribution required of that firefighter under Section 10.01(b).

(d) The governing body of each municipality may authorize the municipality to make an additional contribution to the fund in whatever amount the governing body may determine. The members of the fund, by a majority vote in favor of an increase in contributions above 13.70 percent, may increase each firefighter's contribution above 13.70 percent to any percentage recommended by a majority vote of the board of trustees.

Sec. 10.02. PICKUP OF FIREFIGHTER CONTRIBUTIONS. A municipality to which this Act applies shall pick up the firefighter contributions to the fund that are required or authorized pursuant to Section 10.01 of this Act, whichever is higher. Firefighter contributions will be picked up by a reduction in the monetary compensation of the firefighters. Contributions picked up shall be treated as employer contributions in accordance with Section 414(h)(2) of the Internal Revenue Code for the purpose of determining tax treatment of the amounts under that code. These contributions will be deposited to the credit of the individual accounts of the firefighters in the fund and shall be treated as the monthly contributions of the firefighters for all purposes of this Act. These contributions are not includable in the gross income of a firefighter until the time that they are distributed or made available to the firefighter or survivors of the firefighter. The board of trustees may at any time, by majority vote, discontinue the pickup of firefighter contributions by the municipality.

Sec. 10.03. CONTRIBUTIONS AND INCOME AS ASSETS OF FUND. All contributions paid to the fund under Sections 10.01 and 10.02 of this Act become a part of the assets of the fund. All interest and dividends on investments of the assets of the fund shall be deposited into the fund and are part of it.

Sec. 10.04. INTEREST ON INDIVIDUAL ACCOUNTS. The fund shall credit interest on December 31 of each year to the account of each firefighter, and of each former firefighter, who has not retired in an amount equal to five percent of the accumulated contributions, including previously credited interest, on deposit on January 1 of that year. The fund may not pay interest on a firefighter's or former firefighter's contributions for part of a year or for any period that is more than five calendar years after the date of termination of employment.

ARTICLE 11. INVESTMENT OF ASSETS

Sec. 11.01. INVESTMENTS. The board of trustees in its sole

discretion may invest, reinvest, or change the assets of the fund. The board of trustees shall invest the funds in whatever instruments or investments the board considers prudent. In making investments for the fund, the board of trustees shall discharge its duties with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a similar capacity and familiar with such matters would use in the conduct of an enterprise of a similar character and with similar aims.

Sec. 11.02. Repealed by Acts 1997, 75th Leg., ch. 30, Sec. 9, eff. Sept. 1, 1997.

Sec. 11.03. INVESTMENT POLICY. (a) The board of trustees shall adopt and maintain a written investment policy regarding the investment of fund assets.

(b) The board of trustees may not adopt an amendment to the investment policy adopted under this section unless the proposed amendment is approved by the affirmative vote of a majority of the members of the board at not fewer than three regular meetings of the board.

Sec. 11.04. FIDUCIARIES. (a) A person or financial institution is a fiduciary of the fund to the extent that the person or the financial institution:

(1) exercises any discretionary authority or discretionary control over management of the fund or exercises any authority or control over management or disposition of the assets of the fund;

(2) renders or has authority or responsibility to render investment advice for a fee or other compensation, direct or indirect, concerning any money or other property of the fund; or

(3) has any discretionary authority or discretionary responsibility over the administration of the fund.

(b) A fiduciary of the fund may not cause the fund to engage in a transaction if the fiduciary knows or should know that the transaction constitutes a direct or indirect:

(1) sale, exchange, or lease of any property from the fund to a party for less than adequate consideration or from a party to the fund for more than adequate consideration;

(2) loan of money or other extension of credit from the fund to a party without the receipt of adequate security and a reasonable rate of interest or from a party to the fund with provision of excessive security or an unreasonably high rate of interest;

(3) furnishing of goods, services, or facilities from the fund

to a party for less than adequate consideration or from a party to the fund for more than adequate consideration; or

(4) transfer to or use by or for the benefit of a party of any assets of the fund for less than adequate consideration.

(c) A fiduciary of the fund may not:

(1) deal with the assets of the fund in the fiduciary's own interest or for the fiduciary's own account;

(2) in the fiduciary's individual or any other capacity act in any transaction involving the fund on behalf of a party whose interests are adverse to the interests of the fund or the interests of its participants or beneficiaries; or

(3) receive any consideration for the fiduciary's own personal account from any party dealing with the fund in connection with a transaction involving the assets of the fund.

(d) The board of trustees may purchase insurance indemnifying the members of the board of trustees against personal loss or accountability from liability resulting from a member's act or omission as a member of the board of trustees.

ARTICLE 12. OFFICERS, EMPLOYEES, AND PROFESSIONALS

Sec. 12.01. ADMINISTRATOR AND EMPLOYEES. The board of trustees shall appoint an administrator who shall administer the fund under the supervision and direction of the board of trustees. The board of trustees shall employ such other employees as are required for the efficient administration of the fund.

Sec. 12.02. LEGAL COUNSEL. The board of trustees shall retain legal counsel for matters affecting the operation of the fund.

Sec. 12.03. ACTUARY. (a) The board of trustees shall employ an actuary who may be the consultant and technical advisor to the board of trustees regarding the operation of the fund and may perform such duties as may be required by the board.

(b) The actuary shall make a valuation at least once every two years of the assets and liabilities of the fund on the basis of assumptions and methods that are reasonable in the aggregate, considering the experience of the fund and reasonable expectations and that, in combination, offer the actuary's best estimate of anticipated experience under the fund.

(c) On the basis of the valuation, the actuary shall make recommendations to the board of trustees to ensure the actuarial soundness of the fund. In making recommendations, the actuary shall define each actuarial term and enumerate and explain each actuarial

assumption used in making the valuation. This information must be included either in the actuarial study or in a separate report made available as a public record.

(d) The board of trustees shall file with the State Pension Review Board a copy of each actuarial study and each separate report made as required by law.

(e) An actuary employed under this section must be a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

(f) The municipality may pay all or part of the cost of the actuarial services. Any cost not paid directly by the municipality is payable from assets of the fund.

Sec. 12.04. INVESTMENT COUNSELORS AND MANAGERS; CUSTODIAN OF ASSETS. (a) The board of trustees may employ professional investment counselors to advise and assist the board in the investment of the assets of the fund. The investment counseling service must be provided by a nationally known organization whose business functions include rendering continuous investment advisory service to public pension and retirement funds. The municipality may pay the entire cost of this counseling service. If not paid by the municipality, the cost may be paid from the assets of the fund.

(b) The board of trustees shall appoint investment managers for the fund by contracting for professional investment services with one or more organizations, which may include a bank if it has a trust department, that are in the business of managing investments.

(c) To be eligible for appointment under Subsection (b) of this section, an investment manager must be:

(1) registered under the federal Investment Advisors Act of 1940 (15 U.S.C. 801b-1 et seq.);

(2) a bank as defined by that Act; or

(3) an insurance company qualified to perform investment services under the laws of more than one state.

(d) In a contract made under Subsection (b) of this section, the board shall specify any policies, requirements, or restrictions, including criteria for determining the quality of investments and for the use of standard rating services, that the board adopts for investments of the fund.

(e) The municipality may pay all or part of the cost of

professional investment management services under a contract under Subsection (b) of this section. Any cost not paid directly by the municipality is payable from assets of the fund.

(f) The board of trustees may at any time and shall at frequent intervals monitor the investments made by any investment manager for the fund. The board may contract for professional evaluation services to fulfill this requirement.

(g) The municipality may pay all or part of the cost of professional evaluation services under Subsection (f) of this section. Any cost not paid directly by the municipality is payable from assets of the fund.

(h) The board may enter into an investment custody account agreement designating a state or national bank or a trust company as custodian for all assets allocated to or generated under the investment management contract.

(i) Under the custody account agreement, the board of trustees shall require the designated custodian to perform the duties and assume the responsibilities for assets under the contract for which the agreement is established.

(j) The municipality may pay all or part of the cost of services under a custody account agreement under Subsection (h) of this section. Any cost not paid directly by the municipality is payable from assets of the fund.

(k) An investment manager other than a bank having a contract with the fund under Subsection (b) of this section may not be a custodian of any assets of the fund.

(l) When demands of the fund require, the board shall withdraw from a custodian of fund assets money for use in paying benefits to members and other beneficiaries of the fund and for reasonable expenses of administering the fund, as approved by the board.

Sec. 12.05. MEDICAL BOARD. The board of trustees may designate a medical board composed of three persons. To be eligible to serve as a member of the medical board, a physician must be licensed to practice medicine in this state and be of good standing in the medical profession. The board of trustees also may designate persons who are not physicians to serve on the medical board. The medical board shall:

(1) review all medical examinations and reports required by this Act;

(2) investigate essential statements and certificates made by or

on behalf of a member of the fund in connection with an application for disability retirement; and

(3) report in writing to the board of trustees its conclusions and recommendations on all matters referred to it.

Sec. 12.06. RETIREMENT COUNSELING. The board of trustees may pay for the cost of counseling for members of the fund regarding retirement matters.

Sec. 12.07. AUDITS; EMPLOYMENT OF CERTIFIED PUBLIC ACCOUNTANTS. The board of trustees shall employ a certified public accountant or firm of certified public accountants to perform an audit of the fund at least annually. The municipality may pay the entire cost of an audit. If not paid by the municipality, the cost may be paid from the assets of the fund.

Sec. 12.08. CIVIL ACTIONS FOR MONEY WRONGFULLY PAID OUT OR OBTAINED. The board of trustees may recover by civil action from any offending party or from the party's sureties, if any, any money paid out or obtained from the fund through fraud, misrepresentation, defalcation, theft, embezzlement, or misapplication and may institute, conduct, and maintain the action in the name of the board of trustees for the use and benefit of the fund.

Acts 1975, 64th Leg., p. 412, ch. 183, Sec. 1 to 22, eff. May 13, 1975. Amended by Acts 1979, 66th Leg., p. 525, ch. 248, Sec. 1 to 5, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 298, ch. 120, Sec. 1, 2, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 591, ch. 237, Sec. 123, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 372, Sec. 1 to 10, eff. Aug. 26, 1985; Acts 1987, 70th Leg., ch. 358, Sec. 1 to 9, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 375, Sec. 37, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 863, Sec. 1 to 10, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 453, Sec. 1 to 8, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 597, Sec. 47, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 69, Sec. 1 to 7, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 282, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 30, Sec. 1 to 9, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 204, Sec. 1, eff. Oct. 1, 1997; Acts 1999, 76th Leg., ch. 177, Sec. 1 to 4, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 601, Sec. 1 to 10, eff. Sept. 1, 2001. Acts 2001, 77th Leg., ch. 669, Sec. 166, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 707 (H.B. 2829), Sec. 1, eff.

September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 707 (H.B. 2829), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 707 (H.B. 2829), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 707 (H.B. 2829), Sec. 4, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 707 (H.B. 2829), Sec. 5, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 707 (H.B. 2829), Sec. 6, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 707 (H.B. 2829), Sec. 7, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 707 (H.B. 2829), Sec. 8, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 707 (H.B. 2829), Sec. 9, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 707 (H.B. 2829), Sec. 10, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 192, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1354 (S.B. 1286), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 162 (H.B. 1756), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 162 (H.B. 1756), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 162 (H.B. 1756), Sec. 3, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 162 (H.B. 1756), Sec. 4, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 162 (H.B. 1756), Sec. 5, eff. September 1, 2015.

Art. 6243e.2(1). FIREFIGHTERS' RELIEF AND RETIREMENT FUND IN MUNICIPALITIES OF AT LEAST 1,600,000 POPULATION.

Sec. 1. DEFINITIONS. In this article:

(1) "Active service" means a status of current employment

as a firefighter by the fire department of a municipality described by Section 2(a) of this article.

(1-a) "Actuarial data" includes:

(A) the census data, assumption tables, disclosure of methods, and financial information that are routinely used by the fund actuary for the fund's valuation studies or an actuarial experience study under Section 13D of this article; and

(B) other data that is reasonably necessary to implement Sections 13A through 13F of this article.

(1-b) "Actuarial experience study" has the meaning assigned by Section 802.1014, Government Code.

(1-c) "Amortization period" means the time period necessary to fully pay a liability layer.

(1-d) "Amortization rate" means the sum of the scheduled amortization payments for a given fiscal year for the current liability layers divided by the projected pensionable payroll for that fiscal year.

(1-e) "Assumed rate of return" means the assumed market rate of return on fund assets, which is seven percent per annum unless adjusted as provided by this article.

(1-f) "Average monthly salary" means, if the member has participated in the fund for:

(A) three or more years, the total salary received by a member as a firefighter over the member's:

(i) highest 78 biweekly pay periods for a member hired before the year 2017 effective date, including a member who was hired before the year 2017 effective date and who involuntarily separated from service but was retroactively reinstated in accordance with an arbitration, civil service, or court ruling; or

(ii) last 78 biweekly pay periods ending before the earlier of the date the member terminates employment with the fire department, divided by 36, or the member began participation in the DROP, divided by 36; or

(B) fewer than three years, the total salary paid to the member for the periods the member participated in the fund divided by the number of months the member has participated in the fund.

If a member is not paid on the basis of biweekly pay periods, "average monthly salary" is determined on the basis of the number of pay periods under the payroll practices of the municipality

sponsoring the fund that most closely correspond to 78 biweekly pay periods.

(1-g) "Beneficiary adult child" means a child of a member by birth or adoption who:

(A) is not an eligible child; and

(B) is designated a beneficiary of a member's DROP account by valid designation under Section 5(j-1).

(2) "Board" or "board of trustees" means the board of trustees of a firefighters' relief and retirement fund established under this article.

(3) "Code" means the federal Internal Revenue Code of 1986, as amended.

(3-a) "Confidentiality agreement" means a letter agreement sent from the municipal actuary or an independent actuary in which the municipal actuary or the independent actuary, as applicable, agrees to comply with the confidentiality provisions of this article.

(3-b) "Corridor" means the range of municipal contribution rates that are:

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

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

(3-c) "Corridor margin" means five percentage points.

(3-d) "Corridor midpoint" means the projected municipal contribution rate specified for each fiscal year for 31 years in the initial risk sharing valuation study under Section 13C of this article, and as may be adjusted under Section 13E or 13F of this article, and in each case rounded to the nearest hundredths decimal place.

(4) "Deferred retiree" means a member who is eligible for a benefit under Section 8(a) of this article.

(5) "Disabled child" means any individual who is the child of a member by birth or adoption and who is totally disabled as a result of a physical or mental illness or injury, including retardation, at the time the member dies or who becomes so disabled before reaching 18 years of age. The term includes a child the board determines is unable to pursue any gainful employment.

(6) "DROP" means the deferred retirement option plan under Section 5 of this article.

(7) "DROP account" means the notional account established

to reflect the credits, contributions, and earnings of a member who has made a DROP election in accordance with Section 5 of this article.

(8) "Eligible child" means a child of a member by birth or adoption who is unmarried and under 18 years of age, a disabled child, or under 23 years of age, unmarried, and a full-time student enrolled in an accredited college or university, but only if the member executes an election permitting the child to be treated as an eligible child in accordance with procedures established by the board or if the member does not have an eligible spouse.

(9) "Eligible parent" means a parent of a member, by birth or by adoption while the member was a minor, who proves to the satisfaction of the board that the parent was a dependent of the member immediately before the member's death.

(10) "Eligible spouse" means:

(A) in the case of a member who dies after June 30, 1998, a spouse to whom the member was married at the time of the member's death; or

(B) in the case of a member who dies before July 1, 1998, a spouse to whom the member was married at the time the member's benefit under this article is scheduled to begin and at the time of the member's death.

(10-a) "Employer normal cost rate" means the normal cost rate minus the member contribution rate.

(10-b) "Estimated municipal contribution rate" means the municipal contribution rate estimated in a final risk sharing valuation study under Section 13B or 13C of this article, as applicable, as required by Section 13B(a)(5) of this article.

(11) "Firefighter" means a full-time, fully paid, active, classified member of a regularly organized fire department of an incorporated municipality with a fund established under this article, including a member who has made a DROP election, but is otherwise described in this definition.

(11-a) "Fiscal year," except as provided by Section 1B of this article, means a fiscal year beginning on July 1 and ending on June 30.

(12) "Fund" means a firefighters' relief and retirement fund established under this article.

(12-a) "Funded ratio" means the ratio of the fund's actuarial value of assets divided by the fund's actuarial accrued

liability.

(12-b) "Legacy liability" means the unfunded actuarial accrued liability:

(A) for the fiscal year ending June 30, 2016, reduced to reflect:

(i) changes to benefits or contributions under this article that took effect on the year 2017 effective date; and

(ii) payments by the municipality and earnings at the assumed rate of return allocated to the legacy liability from July 1, 2016, to July 1, 2017, excluding July 1, 2017; and

(B) for each subsequent fiscal year:

(i) reduced by the contributions for that year allocated to the amortization of the legacy liability; and

(ii) adjusted by the assumed rate of return.

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

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

(12-e) "Liability layer" means the legacy liability established in the initial risk sharing valuation study under Section 13C of this article and the unanticipated change as established in each subsequent risk sharing valuation study prepared under Section 13B of this article.

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

(12-g) "Maximum contribution rate" means the rate equal to the corridor midpoint plus the corridor margin.

(13) "Member" means a firefighter or former firefighter who has satisfied the eligibility requirements under Section 13 of this article and who has not yet received a distribution of the entire benefit to which the person is entitled under this article.

(13-a) "Minimum contribution rate" means the rate equal to the corridor midpoint minus the corridor margin.

(13-b) "Municipality" means a municipality in this state having a population of more than 2 million.

(13-c) "Municipal contribution rate" means a percent of pensionable payroll that is the sum of the employer normal cost rate

and the amortization rate for liability layers, except as determined otherwise under the express provisions of Sections 13E and 13F of this article.

(13-d) "Normal cost rate" means the salary weighted average of the individual normal cost rates determined for the current active population plus an allowance for projected administrative expenses. The allowance for projected administrative expenses equals the administrative expenses divided by the pensionable payroll for the previous fiscal year, provided the administrative allowance may not exceed 1.25 percent of the pensionable payroll for the current fiscal year unless agreed to by the municipality.

(13-e) "Normal retirement age" means:

(A) for a member, including a member who was hired before the year 2017 effective date and who involuntarily separated from service but has been retroactively reinstated in accordance with an arbitration, civil service, or court ruling, hired before the year 2017 effective date, the age at which the member attains 20 years of service; or

(B) except as provided by Paragraph (A) of this subdivision, for a member hired or rehired on or after the year 2017 effective date, the age at which the sum of the member's age, in years, and the member's years of participation in the fund equals at least 70.

(14) "Off-duty disability" means a physical or mental disability that:

(A) is likely to be permanent; and

(B) results from a cause other than a bodily injury received in, or illness caused by, the performance of a member's duties as a firefighter.

(15) "On-duty disability" means a physical or mental disability that:

(A) is likely to be permanent; and

(B) results from a bodily injury received in, or illness caused by, the performance of the member's duties as a firefighter.

(15-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.

(15-b) "Pensionable payroll" means the aggregate salary of all the firefighters on active service, including all firefighters

participating in an alternative retirement plan established under Section 1C of this article, in an applicable fiscal year.

(15-c) "Price inflation assumption" means:

(A) the most recent headline consumer price index 10-year forecast published in the Federal Reserve Bank of Philadelphia Survey of Professional Forecasters; or

(B) if the forecast described by Paragraph (A) of this subdivision is not available, another standard as determined by mutual agreement between the municipality and the board.

(15-d) "Projected pensionable payroll" means the estimated pensionable payroll for the fiscal year beginning 12 months after the date of the risk sharing valuation study prepared under Section 13B of this article at the time of calculation by:

(A) projecting the prior fiscal year's pensionable payroll forward two years using the current payroll growth rate assumptions; 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.

(15-e) "PROP" means the post-retirement option plan under Section 5A of this article.

(15-f) "PROP account" means the notional account established to reflect the credits and contributions of a member or surviving spouse who made a PROP election in accordance with Section 5A of this article before the year 2017 effective date.

(16) "Salary" means wages as defined by Section 3401(a) of the code, plus any amount not includable in gross income under Section 104(a)(1), Section 125, Section 132(f), Section 402(g)(2), Section 457, or Section 414(h)(2) 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.

(16-a) "Third quarter line rate" means the corridor midpoint plus 2.5 percentage points.

(16-b) "Ultimate entry age normal" means an actuarial cost method under which a calculation is made to determine the average uniform and constant percentage rate of contributions that, if applied to the compensation of each member during the entire period

of the member's anticipated covered service, would be required to meet the cost of all benefits payable on the member's behalf based on the benefits provisions for newly hired employees. For purposes of this definition, the actuarial accrued liability for each member is the difference between the member's present value of future benefits based on the tier of benefits that apply to the member and the member's present value of future normal costs determined using the normal cost rate.

(16-c) "Unfunded actuarial accrued liability" means the difference between the actuarial accrued liability and the actuarial value of assets. For purposes of this definition:

(A) "actuarial accrued liability" means the portion of the actuarial present value of projected benefits attributed to past periods of member service based on the cost method used in the risk sharing valuation study prepared under Section 13B or 13C of this article, as applicable; and

(B) "actuarial value of assets" means the value of fund investments as calculated using the asset smoothing method used in the risk sharing valuation study prepared under Section 13B or 13C of this article, as applicable.

(16-d) "Unanticipated change" means, with respect to the unfunded actuarial accrued liability in each subsequent risk sharing valuation study prepared under Section 13B of this article, 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.

(16-e) "Unused leave pay" means the accrued value of unused leave time payable to an employee after separation from service in accordance with applicable law and agreements.

(16-f) "Year 2017 effective date" means the date on which S.B. No. 2190, Acts of the 85th Legislature, Regular Session, 2017, took effect.

(17) "Years of participation" means the number of years that a member has participated in the fund by making the contributions required by this article, as determined under rules established by the board.

Sec. 1A. INTERPRETATION OF ARTICLE. This article, including

Sections 2(p) and (p-1) of this article, does not and may not be interpreted to:

(1) relieve the municipality, the board, or the fund of their respective obligations under Sections 13A through 13F of this article;

(2) reduce or modify the rights of the municipality, the board, or the fund, including any officer or employee of the municipality, board, or fund, to enforce obligations described by Subdivision (1) of this section;

(3) relieve the municipality, including any official or employee of the municipality, from:

(A) paying or directing to pay required contributions to the fund under Section 13 or 13A of this article or carrying out the provisions of Sections 13A through 13F of this article; or

(B) reducing or modifying the rights of the board and any officer or employee of the board or fund to enforce obligations described by Subdivision (1) of this section;

(4) relieve the board or fund, including any officer or employee of the board or fund, from any obligation to implement a benefit change or carry out the provisions of Sections 13A through 13F of this article; or

(5) reduce or modify the rights of the municipality and any officer or employee of the municipality to enforce an obligation described by Subdivision (4) of this section.

Sec. 1B. FISCAL YEAR. If either the fund or the municipality changes its respective fiscal year, the fund and the municipality may enter into a written agreement to change the fiscal year for purposes of this article. If the fund and municipality enter into an agreement described by this section, the parties shall, in the agreement, adjust the provisions of Sections 13A through 13F of this article to reflect that change.

Sec. 1C. ALTERNATIVE RETIREMENT PLANS. (a) In this section, "salary-based benefit plan" means a retirement plan provided by the fund under this article that provides member benefits calculated in accordance with a formula that is based on multiple factors, one of which is the member's salary at the time of the member's retirement.

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

appropriate.

(c) Notwithstanding any other law, including Section 13G of this article, if, beginning with the final risk sharing valuation study prepared under Section 13B of this article on or after July 1, 2021, either the funded ratio of the fund is less than 65 percent as determined in the final risk sharing valuation study without making any adjustments under Section 13E or 13F of this article, or 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 a cash balance retirement plan that complies with Section 1D of this article; and

(2) require each firefighter first hired by the municipality on or after the 90th day 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 salary-based benefit plan, provided the firefighter would have otherwise been eligible to participate in the salary-based benefit plan.

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

(1) "Cash balance plan participant" means a firefighter who participates in a cash balance retirement plan.

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

(3) "Interest" means the interest credited to a cash balance plan participant's notional account, which may not:

(A) exceed a percentage rate equal to the cash balance retirement plan's most recent five fiscal years' smoothed rate of return; or

(B) be less than zero percent.

(4) "Salary-based benefit plan" has the meaning assigned by Section 1C of this article.

(b) The written agreement 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 20 years from the date an actuarial gain or loss is realized;

(3) provide for the crediting of municipal and cash balance plan participant contributions to each cash balance plan participant's notional account;

(4) provide for the crediting of interest to each cash balance plan participant's notional account;

(5) include a vesting schedule;

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

(7) provide for death and disability benefits;

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

(A) receive a monthly annuity payable for the life of the cash balance plan participant in an amount actuarially determined on the date of the cash balance plan participant's retirement based on the cash balance plan participant's accumulated notional account balance annuitized in accordance with the actuarial assumptions and actuarial methods established in the most recent actuarial experience study conducted under Section 13D of this article, except that the assumed rate of return applied may not exceed the fund's assumed rate of return in the most recent risk sharing valuation study; or

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

(9) include any other provision determined necessary by:

(A) the board and the municipality; or

(B) the fund for purposes of maintaining the tax-qualified status of the fund under Section 401 of the code.

(c) Notwithstanding any other law, including Section 13 of this article, a firefighter who participates in a cash balance retirement plan:

(1) subject to Subsection (d) of this section, is not eligible to be a member of and may not participate in the fund's salary-based benefit plan; and

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

(d) A cash balance plan participant is considered a member for purposes of Sections 13A through 13H of this article.

(e) At the time the cash balance retirement plan is implemented, the employer normal cost rate of the cash balance retirement plan may not exceed the employer normal cost rate for the salary-based benefit plan.

Sec. 1E. CONFLICT OF LAW. To the extent of a conflict between this article and any other law, this article prevails.

Sec. 2. FUND AND BOARD OF TRUSTEES. (a) A firefighters' relief and retirement fund is established in each incorporated municipality that has a population of at least 1,600,000 and a fully paid fire department.

(b) The board of trustees of the fund shall be known as the "(name of municipality) Firefighters' Relief and Retirement Fund Board of Trustees" and the fund shall be known as the "(name of municipality) Firefighters' Relief and Retirement Fund." The board consists of 10 trustees, including:

(1) the mayor or an appointed representative of the mayor;

(2) the director of finance or the director of finance's designee of the municipality or, if there is not a director of finance, the highest ranking employee of the municipality, excluding elected officials, with predominately financial responsibilities, as determined by the mayor, or that employee's designee;

(3) five firefighters who are members of the fund;

(4) one person who is a retired firefighter and a member of the fund with at least 20 years of participation; and

(5) two persons, each of whom is a registered voter of the municipality, has been a resident of the municipality for at least one year preceding the date of initial appointment, and is not a municipal officer or employee.

(c) To serve as a trustee under Subsection (b)(3) of this section, a person must be elected by ballot of the firefighters who are members of the fund. That election shall be held during the last quarter of the year preceding the January in which the term of a trustee occupying one of those positions expires. The trustee serves a term of three years. Three of the trustees described under Subsection (b)(3) of this section shall be elected from the

suppression division of the fire department. One of the trustees from the suppression division must have the rank of firefighter or engineer/operator, and the position on the board to which that trustee is elected is designated as Position I. One of the trustees from the suppression division must have the rank of captain or senior captain, and the position on the board to which that trustee is elected is designated as Position II. One of the trustees from the suppression division must have the rank of district chief, deputy chief, or assistant chief, and the position on the board to which that trustee is elected is designated as Position III. One of the trustees described under Subsection (b)(3) of this section shall be elected from the fire prevention division, and the position on the board to which that trustee is elected is designated as Position IV. One of the trustees described under Subsection (b)(3) of this section shall be elected from the fire alarm operators division or the fire department repair division, and the position on the board to which that trustee is elected is designated as Position V.

(d) To serve as a trustee under Subsection (b)(4) of this section, a person must be elected by ballot of those retired members with at least 20 years of participation in the fund. The election shall be held during the last quarter of every third year starting in 1997. The trustee serves a three-year term, starting in January after the trustee is elected.

(e) To serve as a trustee under Subsection (b)(5) of this section, a person must be appointed by the elected members of the board. Each of those trustees serves a staggered term of two years. The appointment or reappointment of one of those trustees shall take place in December of each year.

(f) If a vacancy occurs in an elected position on the board, the vacancy shall be filled in the manner provided in this section for the election of the trustee to that position. The election may occur either at the next following regular election of trustees by members of the fire department or in a special election called by the board. If a vacancy occurs in a position appointed by the elected trustees of the board, that position shall be filled by a vote of the elected trustees of the board. A trustee who is elected or selected to fill a vacancy holds office for the unexpired term of the trustee who vacated that position.

(g) Each trustee of the board shall, at the first board meeting following the trustee's most recent election or appointment, take an

oath of office that the trustee will diligently and honestly administer the affairs of the fund and that the trustee will not knowingly violate or willingly permit this article to be violated.

(h) The board shall annually elect from among the trustees a chair, a vice chair, and a secretary.

(h-1) The board may form a standing or ad hoc committee composed of any number of trustees of the board to further administration of the fund. A committee composed of all the trustees of the board:

(1) may be established only by order of the board, fund rule, or policy; and

(2) has the same power as the board to take final action, including the power to issue orders on matters within the scope of the committee's authority as defined by applicable law, rule, or policy.

(h-2) If the board establishes a pension benefits committee under Subsection (h-1) of this section, that committee, even if it is composed of fewer than all the trustees of the board, may deliberate and act in place of the board regarding each application for benefits submitted to the fund by a member or the member's survivor. Final action of a pension benefits committee on an application for benefits is binding, subject only to any right of appeal to the board under law, rule, or policy at the time the application is filed. Except to the extent the final action of a pension benefits committee may be appealed to the board, the final action of the pension benefits committee on an application for benefits constitutes the final action of the board, including for purposes of filing an appeal to a district court under Section 12 of this article.

(i) A trustee of the board may not receive compensation for service on the board.

(j) Six trustees of the board constitute a quorum to transact business of the board or of any committee composed of all the trustees of the board. An order of the board or a committee must be made by vote recorded in the minutes of the proceedings of the board or committee. Each decision of the board in a matter under the board's jurisdiction is final and binding as to each affected member and beneficiary, subject only to the rights of appeal specified by this article.

(k) The board shall receive, manage, and disburse the fund for the municipality and shall hear and determine applications for

retirement and claims for disability and designate the beneficiaries or persons entitled to participate as provided by this article.

(l) The board shall hold regular monthly meetings at a time and place as the board by resolution designates and may hold special meetings on call of the chair as the chair determines is necessary, keep accurate minutes of board meetings and records of board proceedings, keep separate from all other municipal funds all money for the use and benefit of the fund, and keep a record of claims, receipts, and disbursements. A disbursement from the fund may be made in accordance with procedures established by the board. The municipality shall allow municipal employees who are board trustees to promptly attend all board and committee meetings. Each board trustee who is an employee of the municipality shall provide the municipality with reasonable notice of the trustee's required attendance at regularly scheduled board and committee meetings. The municipality shall allow board trustees the time required to travel to and attend educational workshops and legislative hearings and meetings regarding proposed amendments to this article if attendance is consistent with a board trustee's duty to the board. The municipality may not use the trustee's attendance or travel related to attendance described by this subsection to reduce or withhold the wages that the trustee would otherwise earn. The board may reimburse from the fund the municipality for costs incurred by the municipality for allowing a trustee's attendance under this subsection.

(m) The municipality shall provide full and timely information to the board on matters relating to the hiring of new firefighters, compensation of members, members' deaths or terminations of service, and such other information concerning firefighters as is reasonably required by the board, from time to time, for the board to administer the fund and provide benefits properly.

(n) The board shall, not later than January 31 of each year, provide to the person described by Subsection (b)(2) of this section a detailed and itemized report of all receipts and disbursements with respect to the fund, together with a statement of fund administration, during the preceding fiscal year of the fund, and shall provide other reports and statements or existing financial information concerning the fund as from time to time may be required or requested by the person described by Subsection (b)(2) of this section.

(o) The secretary of the board shall, not later than the seventh

day after the date of each board meeting, forward true copies of the minutes of the meeting to each fire station and to each division of the fire department.

(p) The board shall manage the fund according to the terms and purposes of this article and all applicable sections of the code and has the powers necessary to accomplish that purpose, including the power to:

(1) adopt for the administration of the fund written rules, policies, and procedures not inconsistent with this article;

(2) interpret and construe this article and any summary plan descriptions or benefits procedures, except that each construction must meet any qualification requirements established under Section 401 of the code;

(3) correct any defect, supply any omission, and reconcile any inconsistency that appears in this article in a manner and to the extent that the board considers expedient to administer this article for the greatest benefit of all members;

(4) select, employ, and compensate employees the board considers necessary or advisable in the proper and efficient administration of the fund;

(5) determine all questions, whether legal or factual, relating to eligibility for participation, service, or benefits or relating to the administration of the fund to promote the uniform administration of the fund for the benefit of all members;

(6) establish and maintain records necessary or appropriate to the proper administration of the fund; and

(7) compel witnesses to attend and testify before the board concerning matters related to the operation of this article in the same manner provided for taking of testimony before notaries public.

(p-1) A rule, policy, or procedure adopted by the board under Subsection (p)(1) of this section is final and binding with respect to any matter within the board's jurisdiction and authority.

(q) The chair may administer oaths to witnesses.

(r) The board shall maintain at the offices of the fund each rule, policy, or procedure adopted under this section and shall deliver to the person described by Subsection (b)(2) of this section a copy of each adopted rule, policy, or procedure.

(s) Title 9, Property Code, does not apply to the fund.

(t) The officers and employees of the municipality are fully protected and free of liability for any action taken or omission made

or any action or omission suffered by them in good faith, objectively determined, in the performance of their duties related to the fund. The protection from liability provided by this subsection is cumulative of and in addition to any other constitutional, statutory, or common law official or governmental immunity, defense, and civil or procedural protection provided to the municipality as a governmental entity and to a municipal official or employee as an official or employee of a governmental entity. Except for a waiver expressly provided by this article, this article does not grant an implied waiver of any immunity.

Sec. 2A. QUALIFICATIONS OF MUNICIPAL ACTUARY. (a) An actuary hired by the municipality for purposes of this article must be an actuary from a professional service firm who:

(1) is not already engaged by the fund or any other pension system authorized under Article 6243g-4, Revised Statutes, or Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), to provide actuarial services to the fund or pension system, as applicable;

(2) has a minimum of 10 years of professional actuarial experience; and

(3) is a fellow of the Society of Actuaries or a member of the American Academy of Actuaries and who, in carrying out duties for the municipality, has met the applicable requirements to issue statements of actuarial opinion.

(b) Notwithstanding Subsection (a) of this section, the municipal actuary does not need to meet any greater qualifications than those required by the board for the fund actuary.

Sec. 2B. REPORT ON INVESTMENTS BY INDEPENDENT INVESTMENT CONSULTANT. At least once every three years, the board shall hire an independent investment consultant to conduct a review of fund investments and submit a report to the board and the municipality concerning the review or demonstrate in the fund's annual financial report that the review was conducted. The independent investment consultant shall review and report on at least the following:

(1) the fund's compliance with its investment policy statement, ethics policies, including policies concerning the acceptance of gifts, and policies concerning insider trading;

(2) the fund's asset allocation, including a review and discussion of the various risks, objectives, and expected future cash flows;

(3) the fund's portfolio structure, including the fund's need for liquidity, cash income, real return, and inflation protection and the active, passive, or index approaches for different portions of the portfolio;

(4) investment manager performance reviews and an evaluation of the processes used to retain and evaluate managers;

(5) benchmarks used for each asset class and individual manager;

(6) an evaluation of fees and trading costs;

(7) an evaluation of any leverage, foreign exchange, or other hedging transaction; and

(8) an evaluation of investment-related disclosures in the fund's annual reports.

Sec. 3. OTHER POWERS OF THE BOARD. (a) If the board determines that there is a surplus of funds in an amount exceeding the current demands on the fund, the board may invest the surplus in the manner provided by Chapter 802, Government Code.

(b) The board may employ persons to perform any investment, administrative, legal, medical, accounting, clerical, or other service the board considers appropriate, including:

(1) a certified public accountant or firm of certified public accountants to perform an audit of the fund at times and intervals the board considers necessary;

(2) a professional investment manager or firm of managers as provided by Section 802.204, Government Code;

(3) an actuary or actuarial firm at times and for purposes the board considers necessary or appropriate;

(4) an attorney or firm of attorneys to advise, assist, or represent the board in any legal matter relating to the fund, including litigation involving matters under this article; or

(5) a physician to examine a firefighter before the firefighter becomes a member of the fund or to examine a member or beneficiary applying for or receiving a disability pension or survivor benefit.

(c) A fee incurred in connection with a service or person employed under Subsection (b) of this section may be paid from the fund, except that the costs of audits under Subsection (b)(1) of this section may be paid from the fund only if the municipality does not pay that cost.

(d) The board may have an actuarial valuation performed each

year, and for determining the municipality's contribution rate as provided by Section 13A of this article, the board may adopt a new actuarial valuation each year.

(e) In addition to any other remedy the board has, including any right of set-off from future benefits, the board may recover by civil action from any offending party or from the party's surety money paid out or obtained from the fund through fraud, misrepresentation, defalcation, theft, embezzlement, or misapplication and may institute, conduct, and maintain the action in the name of the board for the use and benefit of the fund.

(f) On written request from the chair, the municipal attorney shall represent the board or the fund in any legal matter, including litigation. The municipal attorney is not entitled to compensation from the fund for providing that representation.

(g) The board may, from fund assets, purchase from an insurer licensed to do business in this state insurance to:

(1) provide for legal defense of the fund;

(2) cover liabilities and losses of the fund;

(3) cover any other insurable risk to the fund; and

(4) provide for the legal defense of or indemnify and hold harmless the trustees of the board and employees of the fund from the effects and consequences of their acts, errors, omissions, or other conduct within the scope of their duties as trustees or employees, whether the acts, errors, omissions, or other conduct is proven or merely alleged.

(g-1) The board may use fund assets to provide insurance coverage comparable to that provided by insurers under Subsection (g) of this section by entering into a collective pool providing governmental entities of this state with self-insurance coverage, including coverage authorized by Chapter 791 or 2259, Government Code, or Chapter 119, Local Government Code. This article does not limit the ability of the board to provide any type of group insurance or self-insurance coverage in a pool of governmental entities for fund employees and their beneficiaries as a benefit of employment.

(g-2) If insurance or pooled governmental self-insurance coverage is unavailable, insufficient, inadequate, or not in effect, the board may indemnify a board trustee or employee for liability imposed as damages and for reasonable costs and expenses incurred by that individual in defense of an alleged act, error, or omission committed in the individual's official capacity or within the scope

of what the board trustee or employee believed in good faith, at the time, to be the board trustee's or employee's official capacity. The board may not indemnify a board trustee or employee for the amount of a loss that results from the board trustee's or employee's wilful and malicious misconduct or gross negligence.

(g-3) The board may establish a self-insurance fund to pay claims for the indemnification of board trustees or employees under Subsection (g-2) of this section. The board shall provide that the self-insurance fund must be limited to an amount not to exceed the greater of three percent of the fund assets or $5 million. The self-insurance fund shall be invested in the same manner as other assets of the fund, and all earnings and losses from investing the self-insurance fund shall be credited to the self-insurance fund unless that credit exceeds the limit on the self-insurance fund set by the board or this subsection. Amounts held in the self-insurance fund may not be included in the actuarial valuation for purposes of determining the municipal contribution rate or the assets available to satisfy the actuarial liabilities of the fund to pay service, disability, or death benefits provided by this article. A decision to indemnify or make a reimbursement out of the self-insurance fund must be made by a majority vote of board trustees eligible to vote on the matter. If the proposed indemnification or reimbursement is of a trustee, that trustee may not vote on the matter.

(h) The board may purchase with board funds a life insurance policy from an insurer licensed to do business in this state to cover the amount of lump-sum death benefits that may become payable to a member's eligible survivor or estate. The amount payable under a policy under this subsection on the death of one member may not exceed the amount of the lump-sum death benefits payable under this article. The board shall be the policyholder of any life insurance purchased under this subsection and shall use any proceeds received from the insurer to satisfy any lump-sum death benefits owed under this article.

(i) The board may pay with fund assets the reasonable expenses incurred in providing annual or semiannual meetings of retired members, spouses of retired members, and eligible survivors that facilitate communication regarding benefits paid under this article if the expenses do not materially affect the total assets of the fund. Reasonable expenses may include the purchase of items or services necessary to promote and facilitate these meetings.

(j) The board may pay for with fund assets, and distribute to survivors of deceased firefighters, commemorative flags and similar memorabilia, having a value of $75 or less, to honor service rendered by the firefighters.

(k) The board may accept gifts and donations to the fund. The gifts and donations shall be added to the fund for the use of the fund.

(l) The trustees, executive director, and employees of the fund are fully protected and free of liability for any action taken or omission made or any action or omission suffered by them in good faith, objectively determined, in the performance of their duties for the fund. The protection from liability provided by this subsection is cumulative of and in addition to any other constitutional, statutory, or common law official or governmental immunity, defense, and civil or procedural protection provided to the fund as a governmental entity and to a fund trustee or employee as an official or employee of a governmental entity. Except for a waiver expressly provided by this article, this article does not grant an implied waiver of any immunity.

(m) The board, or a committee of the board sitting in review of medical or psychiatric records, may consider the medical or psychiatric records of multiple individual applicants for disability benefits within a single closed session under Section 551.078, Government Code, but any action on an application shall be taken on an individual basis.

(n) On the reported death of a member, the fund or an authorized representative of the fund may obtain the death certificate or the pending death certificate directly from the issuing examiner or governmental agency without the prior notification or confirmation that otherwise may be required under law to expedite the issuance of death benefits from the fund to survivors in need of those benefits.

Sec. 3A. CERTAIN ALTERATIONS BY LOCAL AGREEMENT. (a) Except as provided by Subsection (b) of this section, the board is authorized, on behalf of the members or beneficiaries of the fund, to alter benefit types or amounts, the means of determining contribution rates, or the contribution rates provided under this article if the alteration is included in a written agreement between the board and the municipality. An agreement entered into under this section:

(1) must:

(A) if the agreement concerns benefit increases, other than benefit increases that are the result of Section 13E of this article, adhere to the processes and standards set forth in Section 10 of this article; and

(B) operate prospectively only; and

(2) may not, except as provided by Sections 13A through 13F of this article, have the effect or result of increasing the unfunded liability of the fund.

(b) In a written agreement entered into between the municipality and the board under this section, the parties may not:

(1) alter Sections 13A through 13F of this article, except and only to the extent necessary to comply with federal law;

(2) increase the assumed rate of return to more than seven percent per year;

(3) extend the amortization period of a liability layer to more than 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability layer is first recognized; or

(4) allow a municipal contribution rate in any year that is less than or greater than the municipal contribution rate required under Section 13E or 13F of this article, as applicable.

(c) If the board is directed or authorized in Sections 13A through 13F of this article to effect an increase or decrease to benefits or contributions, this article delegates the authority to alter provisions concerning benefits and contributions otherwise stated in this article in accordance with the direction or authorization only to the extent the alteration is set forth in an order or other written instrument and is consistent with this section, the code, and other applicable federal law and regulations. The order or other written instrument must be included in each applicable risk sharing valuation study under Section 13B or 13C of this article, as applicable, adopted by the board, and published in a manner that makes the order or other written instrument accessible to the members.

Sec. 4. SERVICE PENSION BENEFITS. (a) A member who terminates active service for any reason other than death is entitled to receive a service pension provided by this section if the member was:

(1) hired as a firefighter before the year 2017 effective date, including a member who was hired before the year 2017 effective

date and who involuntarily separated from service but has been retroactively reinstated in accordance with an arbitration, civil service, or court ruling, at the age at which the member attains 20 years of service; and

(2) except as provided by Subdivision (1) of this subsection and subject to Subsection (b-2) of this section, hired or rehired as a firefighter on or after the year 2017 effective date, when the sum of the member's age in years and the member's years of participation in the fund equals at least 70.

(b) Except as otherwise provided by Subsection (d) of this section, the monthly service pension for a member described by:

(1) Subsection (a)(1) of this section is equal to the sum of:

(A) the member's accrued monthly service pension based on the member's years of participation before the year 2017 effective date, determined under the law in effect on the date immediately preceding the year 2017 effective date;

(B) 2.75 percent of the member's average monthly salary multiplied by the member's years of participation on or after the year 2017 effective date, for each year or partial year of participation of the member's first 20 years of participation; and

(C) two percent of the member's average monthly salary multiplied by the member's years of participation on or after the year 2017 effective date, for each year or partial year of participation on or after the year 2017 effective date that occurred after the 20 years of participation described by Paragraph (B) of this subdivision; and

(2) Subsection (a)(2) of this section is equal to the sum of:

(A) 2.25 percent of the member's average monthly salary multiplied by the member's years or partial years of participation for the member's first 20 years of participation; and

(B) two percent of the member's average monthly salary multiplied by the member's years or partial years of participation for all years of participation that occurred after the 20 years of participation described by Paragraph (A) of this subdivision.

(b-1) For purposes of Subsection (b) of this section, partial years shall be computed to the nearest one-twelfth of a year.

(b-2) A member's monthly service pension under Subsection (a)(2) of this section may not exceed 80 percent of the member's

average monthly salary.

(c) A member who terminated active service before November 1, 1997, and who had completed at least 20 years of participation on the effective date of termination of service is entitled on retirement to receive a monthly service pension in the amount provided under the law in effect on the effective date of that retirement, unless a subsequent benefit increase is expressly made applicable to that member.

(d) The total monthly benefit payable to a retired or disabled member, other than a deferred retiree or active member who has elected the DROP under Section 5(b) of this article, or payable to an eligible survivor of a deceased member as provided by Section 7(a) or 7(b) of this article, shall be increased by the following amounts: by $100, beginning with the monthly payment made for July 1999; by $25, beginning with the monthly payment made for July, 2000; and by $25, beginning with the monthly payment made for July 2001. These additional benefits may not be increased under Section 11(c), (c-1), or (c-2) of this article.

Sec. 5. DEFERRED RETIREMENT OPTION PLAN. (a) A member who is eligible to receive a service pension under Section 4(a)(1) of this article and who remains in active service may elect to participate in the deferred retirement option plan provided by this section. A member who is eligible to receive a service pension under Section 4(a)(2) of this article may not elect to participate in the deferred retirement option plan provided by this section. On subsequently terminating active service, a member who elected the DROP may apply for a monthly service pension under Section 4 of this article, except that the effective date of the member's election to participate in the DROP will be considered the member's retirement date for determining the amount of the member's monthly service pension. The member may also apply for any DROP benefit provided under this section on terminating active service. An election to participate in the DROP, once approved by the board, is irrevocable.

(a-1) The monthly benefit of a DROP participant who has at least 20 years of participation on the year 2017 effective date is increased at retirement by two percent of the amount of the member's original benefit for every full year of participation in the DROP by the member for up to 10 years of participation in the DROP. For a member's final year of participation, but not beyond the member's 10th year in the DROP, if a full year of participation is not

completed, the member shall receive a prorated increase of 0.166 percent of the member's original benefit for each month of participation in that year. An increase provided by this subsection does not apply to benefits payable under Subsection (l) of this section. An increase under this subsection is applied to the member's benefit at retirement and is not added to the member's DROP account. The total increase under this subsection may not exceed 20 percent for 10 years of participation in the DROP by the member.

(b) A member may elect to participate in the DROP by complying with the election process established by the board. The member's election may be made at any time beginning on the date the member has completed 20 years of participation in the fund and is otherwise eligible for a service pension under Section 4(a)(1) of this article. Beginning on the first day of the month following the month in which the member makes an election to participate in the DROP, subject to board approval, and ending on the year 2017 effective date, amounts equal to the deductions made from the member's salary under Section 13(c) of this article shall be credited to the member's DROP account. Beginning after the year 2017 effective date, amounts equal to the deductions made from the member's salary under Section 13(c) of this article may not be credited to the member's DROP account.

(b-1) On or after the year 2017 effective date, an active member may not participate in the DROP for more than 13 years. If a DROP participant remains in active service after the 13th anniversary of the effective date of the member's DROP election:

(1) subsequent deductions from the member's salary under Section 13(c) of this article, except for unused leave pay, may not be credited to the member's DROP account; and

(2) the account shall continue to be credited with earnings in accordance with Subsection (d) of this section.

(b-2) For a member who is a DROP participant, the fund shall credit to the member's DROP account, in accordance with Section 13(c-1) of this article, the amount of unused leave pay otherwise payable to the member and received as a contribution to the fund from the municipality.

(c) After a member's DROP election becomes effective, an amount equal to the monthly service pension the member would have received under Section 4 of this article, if applicable, had the member terminated active service on the effective date of the member's DROP election shall be credited to a DROP account maintained for the

member. That monthly credit to the member's DROP account shall continue until the earlier of the date the member terminates active service or the 13th anniversary of the date of the first credit to the member's DROP account.

(d) A member's DROP account shall be credited with earnings at an annual rate equal to 65 percent of the compounded average annual return earned by the fund over the five years preceding, but not including, the year during which the credit is given. Notwithstanding the preceding, however, the credit to the member's DROP account shall be at an annual rate of not less than 2.5 percent, irrespective of actual earnings.

(d-1) Earnings credited to a member's DROP account under Subsection (d) of this section shall be computed and credited at a time and in a manner determined by the board, except that earnings shall be credited not less frequently than once in each 13-month period and shall take into account partial years of participation in the DROP.

(d-2) A member may not roll over accumulated unused sick or vacation time paid to the member as a lump-sum payment after termination of active service into the member's DROP account.

(e) A member who terminates active service after participating in the DROP is entitled to receive, in addition to the member's service pension under Section 4 of this article, a benefit equal to the balance of the member's DROP account.

(e-1) In lieu of receiving a lump-sum payment on termination from active service, a retired member who has been a DROP participant or, if termination from active service was due to the DROP participant's death, the surviving spouse of the DROP participant may elect to leave the retired member's DROP account with the fund and receive earnings credited to the DROP account in the manner described by Subsection (d) of this section.

(f) In lieu of a single lump-sum payment, a member may elect to receive partial payments from the member's DROP account for each calendar year, in an amount elected by the member. The board may establish procedures concerning partial payments, including limitations on timing and frequency of those payments. A member who elects partial payments may, at any time, elect to receive the member's entire remaining DROP account balance in a single lump-sum payment.

(g) If a member elects partial payments, for periods after a

member terminates active service and before the member's DROP account is completely distributed, the member's DROP account shall be credited with earnings of the fund as computed under Subsection (d) of this section.

(h) An election by a member concerning single lump-sum or partial payments as provided by Subsection (e) or (f) of this section must satisfy the requirements of Section 401(a)(9) of the code. All distributions and changes in form of distribution must be made in a manner and at a time that comply with that provision of the code.

(i) The day immediately before the date the DROP participant's election becomes effective is the last day used for purposes of computing and providing service pension benefits under Section 4 of this article or for purposes of computing and providing death benefits under Section 7 of this article. A salary earned or additional years of participation completed after the member's DROP election becomes effective may not be considered in the computation of retirement or death benefits, except for the limited purpose of percentage increases provided under Subsection (a) of this section.

(j) If a DROP participant dies before complete distribution of the member's DROP account has been made, the member's DROP account balance shall be distributed to the member's eligible beneficiaries, determined as follows:

(1) if the member is survived by a spouse who was the member's spouse on the date the member's DROP election became effective and one or more eligible children, one-half of the member's DROP account balance shall be paid to that eligible spouse, and the remaining one-half shall be divided equally among the member's eligible children;

(2) if the member is survived by a spouse described by Subdivision (1) of this subsection, but not by an eligible child, the member's entire DROP account balance shall be paid to the surviving spouse;

(3) if the member is survived by one or more eligible children, but not by a spouse described by Subdivision (1) of this subsection, the member's DROP account balance shall be divided equally among the eligible children;

(4) if the member is not survived by a spouse described by Subdivision (1) of this subsection or an eligible child, the member's DROP account balance shall be divided equally among the member's eligible parents;

(5) if the member is not survived by a spouse described by Subdivision (1) of this subsection, an eligible child, or an eligible parent, the member's DROP account balance shall be distributed in accordance with the member's beneficiary designation filed with the board or, if the member has failed to file a valid beneficiary designation, to the member's estate;

(6) if a member's spouse described by Subdivision (1) of this subsection was not married to the member on the date the member's DROP election became effective, the spouse shall receive a reduced benefit equal to the benefit otherwise payable to the surviving spouse under this subsection, multiplied by the percentage of the period between the member's DROP election and the date the member left active service during which the spouse and the member were married, and the amount by which the spouse's benefit is reduced shall be divided among any other eligible survivors as if the member did not have an eligible spouse or, if there are no eligible survivors, distributed in accordance with the member's beneficiary designation filed with the board, or if the member failed to file a valid beneficiary designation, to the member's estate; and

(7) if the conditions described by Subdivision (1), (2), or (6) of this subsection exist, the surviving spouse may elect to maintain the DROP account with the fund in the same manner described by Subsections (e), (f), and (g) of this section.

(j-1) Only for the purpose of distributing a member's DROP account under Subsection (j) of this section, a person who is designated a beneficiary adult child in a valid beneficiary designation filed by the member with the board is considered an eligible child. A designation under this subsection is distinct from the member's beneficiary designation under Subsection (j)(5) of this section.

(k) An eligible beneficiary's share of a deceased member's DROP account shall be distributed as soon as administratively practicable after the member's death in the form of a single lump-sum payment, unless the surviving spouse makes the election permitted by Subsection (j)(7) of this section. All distributions to beneficiaries under this subsection must be made in a manner and at a time that comply with Section 401(a)(9) of the code.

(l) A member who participates in the DROP is ineligible for disability benefits described by Section 6 of this article, except the benefits described by Section 6(c). If a member who has a

disability described by Section 6(c) of this article is a DROP participant, the disability benefit provided by Section 6(c)(1) shall be paid to the member, as a monthly pension benefit, in addition to payments from the DROP account balance. If a member who dies under the conditions described by Section 7(c) of this article is a DROP participant at the time of death or disability resulting in death, the benefit provided by Section 7(c) shall be paid to the member's eligible survivors, as a monthly pension benefit, in addition to payments from the DROP account balance.

(m) A DROP participant with a break in service may receive service credit within DROP for days worked after the regular expiration of the maximum DROP participation period prescribed by this section. The service credit shall be limited to the number of days in which the participant experienced a break in service or the number of days required to constitute 13 years of DROP participation, whichever is smaller. A retired member who previously participated in the DROP and who returns to active service is subject to the terms of this section in effect at the time of the member's return to active service.

(n) After August 31, 2000, the board may set a date after which additional members will not be allowed to elect to participate in the DROP. A member whose election to participate in the DROP becomes effective before a deadline established by the board is entitled to continue participating in the DROP.

(o) A member who has made a DROP election is not classified as retired, eligible to be paid, or eligible to accrue or to receive any benefit that is accrued or received by a member who has terminated active service or by the eligible survivors of deceased members unless the member who has made the DROP election has terminated active service.

(p) A member participating in the DROP who was qualified to make a DROP election before the actual date of the member's election may elect to have the member's DROP account recomputed by participating in a Back-DROP. Under a Back-DROP election, the member's account balance is equal to the amount that the account would have had if the member had elected to participate in the DROP on an earlier date chosen by the member. The Back-DROP date chosen by the member may not be earlier than the later of the date that is three years before the date the member elected to participate in the DROP, or September 1, 1995. The member's choice of a Back-DROP date is irrevocable,

except as provided by Subsection (r) of this section.

(q) A member may revoke the member's Back-DROP election by notifying the fund in writing not later than the earlier of:

(1) the date the member leaves active service; or

(2) the 10th business day after the date the member signs an application form for a Back-DROP.

(r) A member may revoke the date chosen under a Back-DROP election and choose an earlier Back-DROP date only if:

(1) the first date the member chooses is not the earliest date permitted under Subsection (p) of this section; and

(2) the board determines that the member's injury or illness has caused the member to be separated from service earlier than the member anticipated.

Sec. 5A. POST-RETIREMENT OPTION PLAN. (a) The following persons may elect to participate in the post-retirement option plan provided by this section:

(1) a member who terminates active service after participating in the DROP and who is eligible to receive a service pension or other taxable benefits under Section 5 of this article;

(2) a retired member, whether or not that member was a DROP participant, who is eligible to receive a service pension or other taxable benefits under Section 4 of this article; or

(3) a surviving spouse of a member who elects and is eligible to participate in the PROP under Subsection (f) of this section.

(b) A PROP participant may elect to have all or part of the amount that the participant would otherwise receive as a monthly service pension or other taxable benefits under this article, less any amount the board determines is required to pay the participant's share of group medical insurance costs, credited to the participant's PROP account. The participant's PROP account shall be credited with hypothetical earnings in the same manner as the amounts in a member's DROP account under Section 5(d) of this article. At any time, a PROP participant may stop the amounts being credited to the participant's PROP account and elect to resume receiving the participant's monthly service pension or other taxable benefits under this article.

(c) A member or surviving spouse who elects to participate in the PROP shall comply with the PROP election process established by the board.

(d) Subject to rules and procedures adopted by the board, a

PROP participant may elect to receive partial payments from the participant's PROP account in an amount determined by the participant. The board may establish rules and procedures concerning partial payments, including limitations on timing and frequency of those payments. A PROP participant who elects partial payments may, at any time, elect to receive the PROP participant's entire remaining PROP account balance in a single lump-sum payment. If, at any time after the initial credit to the PROP account, a participant's PROP account balance becomes zero, the account closes and the participant's participation in the PROP ceases. A person whose PROP account has been closed because of a zero balance is not eligible to again participate in the PROP.

(e) An election by a member or surviving spouse to receive a single lump-sum payment or partial payments under Subsection (d) of this section must satisfy the requirements of Section 401(a)(9) of the code. All distributions and changes in the form of distribution must be made in a manner and at a time that comply with that section of the code.

(f) The board by rule or policy may permit a member's surviving spouse to elect to participate in the PROP by choosing either or both of the following options:

(1) continuing a deceased member's PROP account; or

(2) establishing a PROP account in which to receive credits from all or part of the surviving spouse's survivor benefits.

(g) A surviving spouse PROP participant and the participant's PROP account are subject to this section and any additional rules the board may adopt relating to PROP accounts and participants generally or to surviving spouse PROP accounts and participants particularly. The board may, by rule, further restrict or define, through the establishment of reasonable categories, who is a surviving spouse of a member for purposes of this section.

(h) If a member who is a PROP participant dies before complete distribution of the participant's PROP account has been made, the participant's PROP account balance shall be distributed in the same manner as a DROP account balance is distributed under Sections 5(j), (j-1), and (k) of this article, except for amounts subject to a surviving spouse's election under Subsection (f) of this section that results in the nondistribution from the plan of all or part of the deceased participant's PROP account.

(i) Only benefits that are taxable under the code may be

credited to a PROP account. Nontaxable disability benefits or other nontaxable benefits, including the nontaxable part of any benefit, may not be credited to a PROP account.

(j) The board may set a date after which additional members or surviving spouses will not be allowed to elect to participate in the PROP.

(k) The board may set a date after which the crediting of additional benefits of a member or a surviving spouse to a PROP account is not allowed.

(l) The board by rule or policy may limit the number of distribution transactions for all PROP participants or for any category of PROP participants.

(m) The board by rule or policy may establish a minimum dollar amount allowed for crediting of benefit amounts to a PROP account.

(n) The board may adopt rules, policies, or procedures that the board determines are necessary or desirable to implement or administer this section.

(o) Notwithstanding any other provision of this article, on or after the year 2017 effective date:

(1) a PROP participant may not have any additional amounts that the participant would otherwise receive as a monthly service pension or other benefits under this article credited to the participant's PROP account; and

(2) a person, including a member or surviving spouse, may not elect to participate in the PROP.

Sec. 6. DISABILITY PENSION BENEFITS. (a) If the board determines that a member has suffered an on-duty disability, the member is entitled to an on-duty disability pension as provided by this section in lieu of any other benefit under this article.

(b) If the board determines that a member is not capable of performing the usual and customary duties of the member's classification or position because of the member's on-duty disability, the member is entitled to receive a monthly disability pension, beginning after the effective date of the member's termination of active service, in an amount equal to the greater of:

(1) 50 percent of the member's average monthly salary; or

(2) the service pension the member would have been entitled to receive under Section 4 of this article based on years of participation as of the effective date of the member's termination of active service.

(c) If the board determines that a member is not capable of performing any substantial gainful activity because of the member's on-duty disability, the member is entitled to receive a monthly disability pension, beginning after the effective date of the member's termination of active service, in an amount equal to the greater of:

(1) 75 percent of the member's average monthly salary; or

(2) the service pension the member would have been entitled to receive under Section 4 of this article based on years of participation on the effective date of the member's termination of active service.

(d) If a full-time active member with at least six years of service becomes disabled or dies from heart or lung disease or cancer, and the member successfully passed a physical examination before the claimed disability or death or on beginning employment as a firefighter, and the examination failed to reveal any evidence of the heart or lung disease or cancer, that condition will be presumed to have caused an on-duty disability for purposes of determining eligibility for disability benefits under this section, and the amount of the disability benefit is presumed to constitute, unless the presumption is rebutted, the pension amount that shall be used to determine the death benefit payable with respect to that member. The on-duty disability presumption may be rebutted only by clear and convincing evidence. Another statutory presumption regarding the cause of illnesses or conditions does not affect any benefit payable under this article.

(e) If the board determines that a member is not capable of performing the usual and customary duties of the member's classification or position because of the member's off-duty disability, the member is entitled to an off-duty disability pension in lieu of any other benefit under this article. If the board makes that determination, the member is entitled to receive a monthly disability pension, beginning after the effective date of the member's termination of active service, in an amount equal to the greater of:

(1) 25 percent of the member's average monthly salary, plus 2-1/2 percent of the member's average monthly salary for each full year of participation in the fund, except that the total monthly disability pension under this subdivision may not exceed 50 percent of the member's average monthly salary; or

(2) the service pension the member would have been entitled to receive under Section 4 of this article based on years of participation on the effective date of the member's termination of active service.

(f) A member is not eligible for an on-duty or off-duty disability pension as provided by this section if the member's on-duty or off-duty disability is a direct and proximate result of a condition that existed on the date the member began membership in the fund. In that event, if the member is not eligible to receive a service pension under Section 4 of this article, the member may elect any deferred pension or refund of contributions for which the member is eligible under Section 8 of this article. A member has a preexisting condition under this subsection if the board determines that the member had:

(1) symptoms that would cause an ordinarily prudent person to seek diagnosis, care, or treatment during the five-year period before the effective date of the member's membership in the fund; or

(2) a condition for which medical advice or treatment was recommended by or received from a physician during the five-year period before the effective date of the member's membership in the fund.

(g) The board shall review, on a case-by-case basis, existing benefit payments to members, and to survivors of deceased members, who retired as a result of a disability with 20 or more years of service under a provision of any predecessor statute previously governing the fund. The review will determine whether the member's disability was an on-duty disability that satisfies the requirements of Subsection (b) or (c) of this section. A determination that a member's disability was an on-duty disability, as described above, will apply only on a prospective basis beginning with January 1 of the calendar year in which the determination is made and will not affect the amount of the member's or survivor's benefits. The board shall make its review and determination under this subsection on the basis of the medical evidence and any other relevant non-testimonial evidence that was previously submitted in connection with the prior application for benefits, except that if the board finds that the historical file is insufficient to make the determination, supplemental evidence of a probative nature may be adduced and accepted to help make the determination.

(h) A person may not receive an on-duty or off-duty disability

pension from the fund unless the person or the person's legal representative files with the board an application for disability benefits, in the form approved by the board, and certificates of the member's disability signed and sworn to by the member and the member's physician or by a physician selected by the board. The board may require other or additional evidence of disability before authorizing payment of disability pension benefits.

(i) The board shall make all determinations concerning benefits under this section in accordance with uniform principles consistently applied on the basis of medical or other evidence that the board determines is necessary or desirable.

Sec. 7. DEATH BENEFITS. (a) If a member dies who is eligible to receive a service pension under Section 4 of this article, a disability pension under Section 6 of this article, or a deferred pension under Section 8(a) of this article, or who is receiving those benefits, the member's eligible survivors are entitled to death benefits as follows:

(1) if the member is survived by both an eligible spouse and one or more eligible children, the eligible spouse is entitled to receive a monthly death benefit equal to one-half of the amount the member would have been entitled to receive, and the surviving eligible children are entitled to receive a monthly death benefit equal to the remainder of the amount the member would have been entitled to receive, divided equally among the eligible children;

(2) if the member is not survived by an eligible child, or if at any time after the death of the member an eligible child is not entitled to a benefit, the monthly death benefit to be paid the eligible spouse is equal to the full amount the member would have been entitled to receive;

(3) if the member is not survived by an eligible spouse, or if the member's eligible spouse dies after being entitled to a death benefit under this section, the surviving eligible children are entitled to receive a monthly death benefit equal to the full monthly pension benefit the member would have been entitled to receive, divided equally among the member's eligible children then living; and

(4) if the member is not survived by an eligible spouse or an eligible child, a monthly death benefit equal to the full monthly pension benefit the member would have been entitled to receive shall be divided among the eligible parents of the deceased member.

(b) If a member's eligible spouse was married to the member for less than five years and was not married to the member at the time the member left active service, the eligible spouse shall be paid a reduced benefit equal to the benefit otherwise payable to the eligible spouse under this section, multiplied by the number of months the eligible spouse was married to the member, and divided by 60 months. Any benefit the eligible spouse may be granted under Section 10A of this article shall be reduced in the same proportion as the reduced benefit provided by this subsection. The amount by which the eligible spouse's benefit is reduced shall be divided among any other eligible survivors as if the member did not have an eligible spouse. This subsection may not be construed to effect any reduction to an eligible spouse of benefits otherwise payable under Section 4(d) of this article.

(c) Notwithstanding any other provision of this section, if a member dies in the course of the performance of the member's duties as a firefighter or suffers an on-duty disability and dies as a result of the bodily injuries that caused the on-duty disability, death benefits based on the member's service shall be computed on the basis of a benefit equal to 100 percent of the deceased member's average monthly salary.

(d) If a member dies after benefit payments have begun or at a time the member could have terminated active service and elected to receive a service pension or deferred pension immediately, the death benefits payable under this section shall begin or continue effective as of the member's date of death. If a member who is not entitled to receive any monthly pension benefit under this article other than a deferred pension under Section 8(a) of this article dies before age 50, any monthly death benefits payable under this section shall begin on the date the deceased member would have reached age 50.

(e) In addition to the monthly death benefit provided under Subsection (a) of this section, if an active member or a member receiving a service pension under Section 4 of this article or a disability pension under Section 6 of this article dies on or after July 1, 1998, the member's eligible survivors are entitled to a one-time $5,000 death benefit, payable as a lump sum as follows:

(1) if the member is survived by an eligible spouse, the eligible spouse is entitled to receive $5,000;

(2) if the member is not survived by an eligible spouse, the member's eligible children are entitled to receive $5,000,

divided equally among those children;

(3) if the member is not survived by an eligible spouse or an eligible child, the $5,000 death benefit shall be divided equally among the eligible parents of the deceased member; or

(4) if the member is not survived by an eligible spouse, an eligible child, or an eligible parent, the $5,000 death benefit shall be paid to the deceased member's estate or to the member's court-approved small estate through its legal representative.

(f) A member in active service who dies, for purposes of Subsection (a) of this section, shall be treated as having become disabled because of the member's cause of death on the date of the member's death.

(g) If a member in active service dies and does not leave an eligible survivor, or the eligible survivors unanimously elect such a benefit in lieu of any other death benefit, a lump-sum benefit shall be paid in an amount equal to the refund, if any, to which the member would have been entitled under Section 8 of this article had the member terminated service on the date of the member's death. That lump-sum benefit shall be paid to the eligible survivors as provided by Subsection (a) of this section or, if there are not any eligible survivors, to the member's designated beneficiary. A member's beneficiary must be designated before the member's death on a form approved by the board. If more than one beneficiary is designated, the benefit shall be divided equally among the beneficiaries unless a different allocation is provided in the designation. If a member fails to properly designate a beneficiary, the benefit provided by this subsection shall be payable to the member's estate or to the member's court-approved small estate through its legal representative on application by the estate or legal representative. Money payable under this subsection may not escheat to the state.

(h) Death benefits are not payable under this article, including benefits to any survivor, based on a member's service if the board determines that the member's death resulted from suicide or attempted suicide that occurred before the member completed two years of participation or that the member's death resulted from a disability arising out of an attempted suicide that occurred before the member completed two years of participation.

(i) A benefit payable under this section to a member's eligible child ceases when the child ceases to be an eligible child.

(j) An eligible spouse is entitled to receive or continue to

receive survivor benefits on remarriage, except that a person who is an eligible spouse of more than one member is entitled to receive survivor benefits as the eligible spouse of only the member whose survivor benefits provide the highest benefit to that eligible spouse.

Sec. 8. DEFERRED PENSION AT AGE 50; REFUND OF CONTRIBUTIONS. (a) On or after the year 2017 effective date, a member who is hired as a firefighter before the year 2017 effective date, including a member who was hired before the year 2017 effective date and who involuntarily separated from service but has been retroactively reinstated in accordance with an arbitration, civil service, or court ruling, terminates active service for any reason other than death with at least 10 years of participation, but less than 20 years of participation, is entitled to a monthly deferred pension benefit, beginning at age 50, in an amount equal to 1.7 percent of the member's average monthly salary multiplied by the amount of the member's years of participation.

(b) In lieu of the deferred pension benefit provided under Subsection (a) of this section, a member who terminates active service for any reason other than death with at least 10 years of participation, but less than 20 years of participation, may elect to receive a lump-sum refund of the member's contributions to the fund with interest computed at five percent, not compounded, for the member's contributions to the fund made before the year 2017 effective date and without interest for the member's contributions to the fund made on or after the year 2017 effective date. A member's election to receive a refund of contributions must be made on a form approved by the board. The member's refund shall be paid as soon as administratively practicable after the member's election is received.

(c) Except as provided by Subsection (a) of this section, a member who is hired or rehired as a firefighter on or after the year 2017 effective date or a member who terminates employment for any reason other than death before the member has completed 10 years of participation is entitled only to a refund of the member's contributions without interest and is not entitled to a deferred pension benefit under this section or to any other benefit under this article. The member's refund shall be paid as soon as administratively practicable after the effective date of the member's termination of active service.

Sec. 9. PROOF OF CONTINUED DISABILITY. (a) The board may at

any time require a person receiving a disability pension or receiving death benefits as a disabled child under this article to undergo a medical examination by a physician appointed or selected by the board for that purpose.

(b) A person retired for disability under Section 6(c) of this article or a person receiving death benefits as a disabled child under Section 7 of this article must file an annual report of employment activities and earnings with the board. The board shall establish the form of the report and the time for filing the report.

(c) The result of the examination, the report by the physician, and the report of employment activities and earnings shall be considered by the board in determining whether the relief in the case shall be continued, increased if less than the maximum provided, decreased, or discontinued. The board may reduce or entirely discontinue all benefits to a person receiving benefits under this article who, after notice from the board, fails to appear for a required medical examination or fails to file the report of employment activities and earnings.

Sec. 10. NONSTATUTORY BENEFIT INCREASES. The benefits provided by this article may be increased if:

(1) an actuary selected by the board who, if an individual, is a Fellow of the Society of Actuaries, a Fellow of the Conference of Actuaries in Public Practice, or a member of the American Academy of Actuaries determines that the increase cannot reasonably be viewed as posing a material risk of jeopardizing the fund's ability to pay any existing benefit;

(2) a majority of the participating members of the fund vote for the increase by a secret ballot;

(3) the increase does not deprive a member, without the member's written consent, of a right to receive benefits that have already become fully vested and matured in a member; and

(4) the State Pension Review Board approves the determination by the actuary selected by the board that the increase cannot reasonably be viewed as posing a material risk of jeopardizing the fund's ability to pay any existing benefit.

Sec. 10A. ANNUAL SUPPLEMENTAL BENEFIT FOR CERTAIN RETIRED MEMBERS AND ELIGIBLE SURVIVORS. (a) The board shall pay supplemental benefits under this section to retired members and eligible survivors who are receiving retirement or survivor benefits on June 30 of the year preceding the year in which the supplemental

benefits are to be paid. Deferred retirees or survivors of deferred retirees may not receive supplemental benefits under this section.

(b) The board shall pay the supplemental benefits under this section each January.

(c) For purposes of this section, the minimum income level is the federal poverty guideline for a family of five as issued by the United States Department of Health and Human Services, rounded up to the nearest $1,000.

(d) The aggregate supplemental benefit amount is $5 million.

(e) Based on the aggregate supplemental benefit amount under Subsection (d) of this section, the board shall determine the amount of a lump-sum payment for each retired member or eligible survivor.

(f) In determining the lump-sum payment amount, the total number of years since the commencement date of each retired member's or eligible survivor's annual retirement or survivor benefit shall be divided by the total number of years since the commencement date of all retired members' and eligible survivors' annual retirement or survivor benefit to establish a payment percentage for each retired member and eligible survivor. For purposes of this section, benefits provided under Section 4(d) of this article may not be included in a retired member's or eligible survivor's annual retirement or survivor benefit.

(g) The payment percentage of each retired member and eligible survivor shall be multiplied by the aggregate supplemental benefit less the total amount of any payments made under Subsection (i) of this section.

(h) The product of the computation under Subsection (g) of this section determines the lump-sum payment to the retired member or eligible survivor unless the lump-sum payment plus the annual retirement benefit is less than the minimum income level under Subsection (c).

(i) If the lump-sum payment plus the annual retirement benefit is less than the minimum income level under Subsection (c) of this section, the retired member or eligible survivor is entitled to receive an additional payment from the amount determined under Subsection (d) of this section that will cause payments to the recipient to meet but not exceed the minimum income level.

(j) The benefits commencement date for a retired member or the eligible survivor of a retired member is the first day on which the retired member most recently began receiving pension benefits from

the fund. The benefits commencement date for an eligible survivor of an active member is the first day of receipt of benefits as an eligible survivor.

(k) Notwithstanding any other provision of this section, if more than one eligible survivor is to receive a supplemental benefit as a result of one deceased person under this section:

(1) only one eligible survivor is considered in computations under this section other than computations under Subdivision (2) of this subsection and as receiving the payments received by all eligible survivors of the one deceased person; and

(2) the amount of payments under this section will be paid to the eligible survivors in the same manner as payments under Sections 7(a) and (b) of this article are made.

(l) All actuarial determinations required under this section must be made by the fund's actuary.

Sec. 10B. ADDITIONAL LUMP-SUM RETIREMENT OR DEATH BENEFIT. (a) The board shall pay the following members a $5,000 lump-sum payment from the fund, in addition to any other benefits, as soon as administratively practicable after the date of the member's retirement:

(1) each member who retires or retired after completing 20 years of service and is eligible to receive service pension benefits under Section 4 of this article; and

(2) each member who retires or retired and is eligible to receive disability benefits under Section 6 of this article.

(b) The board shall pay a $5,000 lump-sum payment from the fund, in addition to any other benefits, to an eligible survivor of a member:

(1) who had not terminated active service; and

(2) who was eligible to receive service pension benefits under Section 4 of this article or disability benefits under Section 6 of this article.

(c) If more than one eligible survivor of one deceased member exists, the amount of each survivor's benefit is determined in the same manner as payment of death benefits is determined under Section 7(e) of this article. The board shall make payments under Subsection (b) of this section as soon as administratively practicable after the date of death of the member of whom each recipient is an eligible survivor.

Sec. 11. GENERAL PROVISIONS FOR CALCULATION AND PAYMENT OF

BENEFITS. (a) A member, eligible survivor, or beneficiary of a member is not entitled to receive payments from a fund under more than one section of this article in a particular capacity. However, a person may be entitled to benefits both as a member and as a survivor or beneficiary of another member.

(b) The amounts of all benefits that the member or the member's beneficiaries may become entitled to receive from the fund shall be computed on the basis of the schedule of benefits in effect for the fund at the member's election either on the day the member leaves active service or on the day the member ceases to carry out the member's regular duties as a firefighter, without adjustment for any subsequent increases of benefits unless those increases are expressly made applicable to previously retired members or their beneficiaries.

(c) Subject to Subsection (c-3) of this section and except as provided by Subsection (c-4) of this section, beginning with the fiscal year ending June 30, 2021, the benefits, including survivor benefits, payable based on the service of a member who has terminated active service and who is or would have been at least 55 years old, received or is receiving an on-duty disability pension under Section 6(c) of this article, or died under the conditions described by Section 7(c) of this article, shall be increased in October of each year by a percentage rate equal to the most recent five fiscal years' smoothed return, as determined by the fund actuary, minus 475 basis points.

(c-1) Subject to Subsection (c-3) of this section and except as provided by Subsection (c-4) of this section, for the fund's fiscal years ending June 30, 2018, and June 30, 2019, the benefits, including survivor benefits, payable based on the service of a member who is or would have been at least 70 years old and who received or is receiving a service pension under Section 4 of this article, received or is receiving an on-duty disability pension under Section 6(c) of this article, or died under the conditions described by Section 7(c) of this article, shall be adjusted in October of each applicable fiscal year by a percentage rate equal to the most recent five fiscal years' smoothed return, as determined by the fund actuary, minus 500 basis points.

(c-2) Subject to Subsection (c-3) of this section and except as provided by Subsection (c-4) of this section, for the fund's fiscal year ending June 30, 2020, members described by Subsection (c-1) of this section shall receive the increase provided under Subsection (c)

of this section.

(c-3) The percentage rate prescribed by Subsections (c), (c-1), and (c-2) of this section may not be less than zero percent or more than four percent, irrespective of the return rate of the fund's investment portfolio.

(c-4) Each year after the year 2017 effective date, a member who elects to participate in the DROP under Section 5 of this article may not receive the increase provided under Subsection (c), (c-1), or (c-2) of this section in any October during which the member participates in the DROP.

(d) In computing a member's years of participation, time served in the armed forces of the nation during war or national emergency is considered continuous service. Except for that military service, credit for prior service shall be given only if a member returns to active service as a firefighter before the fifth anniversary of a previous effective date of termination. Notwithstanding any provision of this article to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the code. A member who is engaged in active duty in any of the military services of the United States shall receive credited pension service for the period of the military service if the member returns to employment with the employer municipality's fire department with an honorable discharge within the period required by the federal reemployment Act and the period of military service does not exceed the period prescribed by that Act. If a member sustains an injury while on military leave under the terms of the federal reemployment Act, pension benefits are payable based on the off-duty disability benefit provisions prescribed by Section 6(e) of this article. If a member dies while on military leave under the terms of the federal reemployment Act, death benefits are payable to eligible survivors based on the off-duty death benefits prescribed by Section 7 of this article. This subsection is intended to comply with the federal reemployment Act. The board may make, maintain, and amend policies and procedures as desirable or necessary to implement the federal reemployment Act. In this subsection, "federal reemployment Act" means the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), as amended.

(e) A retired firefighter may be recalled to duty by the chief of the fire department in case of great conflagration and shall

perform those duties the chief directs but does not have a claim against a municipality or the fund of that municipality for payment for the duty performed.

(f) A member, eligible survivor, or beneficiary who is entitled to receive a benefit payment under this article is entitled to receive the benefit beginning after the date the member ceases to carry out the member's regular duties as a firefighter, notwithstanding the fact that the member may remain on the payroll of the member's fire department or receive sick leave, vacation, or other pay after the effective date of termination of the member's regular duties as a firefighter. In this article, an authorization to receive a benefit "beginning after the effective date of the member's termination of active service" includes authority for the member to instead elect to make the member's pension effective after the date the member ceases to carry out the member's regular duties as a firefighter. If there is a delay in beginning payment of benefits resulting from the requirements of Section 6(h) of this article for disability pensions, the member or beneficiary shall, when the disability pension is approved by the board, be paid the full amount of the disability pension that has accrued since the effective date of termination of the member's regular duties as a firefighter.

(g) A member may designate in a trust document accepted by the fund a trustee to receive the benefit payable to any eligible survivor or beneficiary other than the member's eligible spouse or a spouse eligible to receive a benefit under the DROP. On or after the death or incapacity of the member, an eligible survivor or beneficiary may designate a trustee under this subsection. If the eligible survivor or beneficiary is disabled or a minor child, the parent or legal guardian, as applicable, of the eligible survivor or beneficiary may make the designation. Any designation made under this subsection must be made on a form approved by the board.

(h) A benefit payable under this article to a minor or another person under a legal disability may be made only to the legal guardian of the person, or as provided by Subsection (g) of this section. A payment made in accordance with this section on behalf of a minor or other person under a legal disability fully discharges the fund's obligation to that person.

(i) Notwithstanding any other provision of this article, a person entitled to receive benefit payments from the fund may:

(1) make a one-time election to receive a smaller pension or survivor benefit than is otherwise provided under this article;

(2) make a one-time election not to receive any future annual increases in the pension or survivor benefits received by the person or the person's beneficiary; or

(3) make a one-time election not to receive a specific benefit enhancement.

(j) An election under Subsection (i) of this section must be made in writing and submitted to the board for approval. On the date the board grants approval of an election under Subsection (i) of this section, the election becomes irrevocable.

(k) A benefit under this article may not be integrated with benefits payable under the federal Social Security Act. In a municipality in which firefighters are eligible to enroll for or receive retirement benefits under the Social Security Act, benefits that may be available to a member under the Social Security Act may not be taken into account in determining the amount of benefits a member may receive under this article.

(l) If the board determines that the amount in the fund is insufficient to pay in full any pension or disability benefits, all pension and disability benefits made after the date of the determination shall be reduced pro rata for the period the insufficiency exists.

(m) A benefit payable under this article because of the death of a member or eligible beneficiary may not be paid to a person convicted of causing that death but instead shall be paid as if the convicted person predeceased the deceased member or beneficiary. Except as otherwise permitted by this subsection with respect to suspension of benefits, the board is not required to withhold payment to a person convicted of causing the death of a member or eligible beneficiary until the board receives actual notice of the conviction of that person. The board may suspend payment of a benefit payable on the death of a member or an eligible beneficiary on the indictment of the person who would otherwise be entitled to the benefit, and the suspension remains in effect until the board determines that a final disposition of the charges relating to the cause of death has occurred. If a benefit payment is suspended under this subsection and the person is not convicted, the benefit again becomes payable with interest computed at the rate earned by the fund during the time the benefit payment was suspended. For purposes of this subsection,

a person has been convicted of causing the death of a member or eligible beneficiary if:

(1) the person has pleaded guilty or nolo contendere to, or the person has been found guilty by a court of competent jurisdiction of, an offense at the trial of which it is established that the person's intentional or knowing act or omission caused the death of the member or eligible beneficiary, regardless of whether sentence is imposed or probated; and

(2) an appeal of the conviction is not pending, and the time provided for appeal has expired.

(n) If one or more persons have been given a power of attorney effective to direct distribution of benefits to any person eligible to receive benefits under this article and the fund receives conflicting directions as to those distributions, the fund may withhold benefits until either the final result of judicial proceedings determining which directive prevails or the fund receives a signed agreement between attorneys-in-fact, and principals, if applicable, on distribution directives that completely resolves the conflict. The fund may not be made a party to any proceeding or suit concerning or involving the distribution of benefits under conflicting directives.

(o) The fund may offset amounts received wrongly or in error from the fund by any person receiving benefit payments under this article by making deductions from future benefit payments otherwise payable to the person or the person's beneficiaries. Deductions from future payments for an overpayment may be made only for an overpayment made during the three years preceding the date the board discovers or discovered the overpayment. The board may not recover an overpayment from a recipient if the overpayment was made more than three years before the date the board discovers or discovered the error. The limitation provided by this section does not apply to an overpayment that a reasonable person should know the person is not entitled to receive. The remedy provided by this subsection is not exclusive of any other remedy available to the fund.

Sec. 12. APPEALS OF BENEFIT DECISIONS. (a) A member who is eligible for retirement for length of service or disability or who has a claim for temporary disability, or any of the member's beneficiaries, who is aggrieved by a decision or order of the board, whether on the basis of rejection of a claim or of the amount allowed, may appeal from the decision or order of the board to a

district court in the county in which the board is located by giving written notice of the intention to appeal. The notice must contain a statement of the intention to appeal, together with a brief statement of the grounds and reasons the party feels aggrieved. The notice must be served personally on an officer of the board not later than the 20th day after the date of the order or decision. After service of the notice, the party appealing shall file with the district court a copy of the notice of intention to appeal, together with the affidavit of the party making service showing how, when, and on whom the notice was served.

(b) Not later than the 30th day after the date of service of the notice of intention to appeal on the board, an officer of the board shall file with the district court a transcript of all papers and proceedings in the case before the board. When the copy of the notice of intention to appeal and the transcript have been filed with the court, the appeal is considered perfected, and the court shall docket the appeal, assign the appeal a number, fix a date for hearing the appeal, and notify both the appellant and the board of the date fixed for the hearing.

(c) At any time before issuing a decision on the appeal, the court may require further or additional proof or information, either documentary or under oath. On issuing a decision on the appeal, the court shall give to each party to the appeal a copy of the decision and shall direct the board as to the disposition of the case. The final decision or order of the district court is appealable in the same manner as are civil cases generally.

Sec. 13. MEMBERSHIP AND MEMBER CONTRIBUTIONS. (a) Each person who becomes a firefighter before age 36 becomes a member of the fund if the person's application for membership is accepted by the board. In accepting employment as a firefighter, and on becoming a member of the fund, a firefighter agrees to make contributions required under this article of members of the fund who are in active service and is entitled to participate in the benefits of membership in the fund as provided by this article.

(b) At the time that physical examinations are administered on behalf of the municipality, each applicant must be provided written notice that a copy of the results of the examination will be forwarded to the board for the purpose of determining whether the applicant has a preexisting condition that would be relevant to any determination under Section 6 of this article. Not later than the

10th day after the date of a physical examination performed on an applicant for a beginning position in the fire department as required by Section 143.022, Local Government Code, the municipality shall provide to the board a copy of all documents resulting from the physical examination. The board may require additional physical examinations if necessary in determining the presence or absence of any preexisting condition. The fund shall pay the cost of any additional physical examination the board requires. The applicant's membership in the fund is effective on acceptance by the board.

(c) Subject to adjustments authorized by Section 13E or 13F of this article, each member in active service shall make contributions to the fund in an amount equal to 10.5 percent of the member's salary at the time of the contribution.

(c-1) In addition to the contribution under Subsection (c) of this section, each DROP participant, as identified by the fund to the municipality for purposes of this subsection, shall contribute to the fund an amount equal to 100 percent of the participant's unused leave pay that would otherwise be payable to the member. The fund shall credit any unused leave pay amount contributed by a DROP participant to the participant's DROP account.

(c-2) The governing body of the municipality shall deduct from the salary of each member the contribution required by this section and shall forward the contributions to the fund as soon as practicable.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 1.16, eff. July 1, 2017.

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 1.16, eff. July 1, 2017.

(f) Money deducted from salaries or compensation as provided by this section and the payments and contributions provided by this section become a part of the fund of the municipality in which the contributing member serves at the time of the contribution. In accordance with Section 14(c) of this article, contributions under any qualified governmental excess benefit arrangement do not become part of the trust fund assets of the fund.

(g) On action of its governing body, a municipality may pick up members' contributions prescribed under Subsection (c) of this section for purposes of Section 414(h)(2) of the code. A member's salary is affected by this subsection only as this subsection relates to the computation of pension contributions and gross pay for federal

tax purposes. The computation of pension benefits, severance pay, and other benefits is not affected.

(h) Repealed by Acts 2003, 78th Leg., ch. 333, Sec. 13.

Sec. 13A. MUNICIPAL CONTRIBUTIONS. (a) Beginning with the year 2017 effective date, the municipality shall make contributions to the fund as provided by this section and Section 13B, 13C, 13E, or 13F of this article, as applicable. The municipality shall contribute:

(1) beginning with the year 2017 effective date and ending with the fiscal year ending June 30, 2018, an amount equal to the municipal contribution rate, as determined in the initial risk sharing valuation study conducted under Section 13C of this article and adjusted under Section 13E or 13F of this article, as applicable, multiplied by the pensionable payroll for the fiscal year; and

(2) for each fiscal year after the fiscal year ending June 30, 2018, an amount equal to the municipal contribution rate, as determined in a subsequent risk sharing valuation study conducted under Section 13B of this article and adjusted under Section 13E or 13F of this article, as applicable, multiplied by the pensionable payroll for the applicable fiscal year.

(b) Except by written agreement between the municipality and the board providing for an earlier contribution date, at least biweekly, the municipality shall make the contributions required by Subsection (a) of this section by depositing with the fund an amount equal to the municipal contribution rate multiplied by the pensionable payroll for the applicable biweekly period.

(c) With respect to each fiscal year:

(1) the first contribution by the municipality under this section for the fiscal year shall be made not later than the date payment is made to firefighters for their first full biweekly pay period beginning on or after the first day of the fiscal year; and

(2) the final contribution by the municipality under this section for the fiscal year shall be made not later than the date payment is made to firefighters for the final biweekly pay period of the fiscal year.

(d) In addition to the amounts required under this section, the municipality may at any time contribute additional amounts for deposit in the fund by entering into a written agreement with the board.

(e) Notwithstanding any other law, the municipality may not

issue a pension obligation bond to fund the municipal contribution rate under this section.

Sec. 13B. RISK SHARING VALUATION STUDIES. (a) The fund and the municipality shall separately cause their respective actuaries to prepare a risk sharing valuation study in accordance with this section and actuarial standards of practice. A risk sharing valuation study must:

(1) be dated as of the first day of the fiscal year in which the study is required to be prepared;

(2) be included in the fund's standard valuation study prepared annually for the fund;

(3) calculate the unfunded actuarial accrued liability of the fund;

(4) be based on actuarial data provided by the fund actuary or, if actuarial data is not provided, on estimates of actuarial data;

(5) estimate the municipal contribution rate, taking into account any adjustments required under Section 13E or 13F of this article for all applicable prior fiscal years;

(6) subject to Subsection (g) of this section, be based on the following assumptions and methods that are consistent with actuarial standards of practice:

(A) an ultimate entry age normal actuarial method;

(B) for purposes of determining the actuarial value of assets:

(i) except as provided by Subparagraph (ii) of this paragraph and Section 13E(c)(1) or 13F(c)(2) of this article, an asset smoothing method recognizing actuarial losses and gains over a five-year period applied prospectively beginning on the year 2017 effective date; and

(ii) for the initial risk sharing valuation study prepared under Section 13C of this article, a marked-to-market method applied as of June 30, 2016;

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

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

(E) each liability loss layer amortized over a period

of 30 years from the first day of the fiscal 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 from July 1, 2016, for a 30-year period beginning July 1, 2017;

(F) the amortization period for each liability gain layer being:

(i) 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 fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability gain layer is first recognized;

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

(H) the assumed rate of return, subject to adjustment under Section 13E(c)(2) of this article or, if Section 13C(g) of this article applies, adjustment in accordance with a written agreement, except the assumed rate of return may not exceed seven percent per annum;

(I) the price inflation assumption as of the most recent actuarial experience study, which may be reset by the board by plus or minus 50 basis points based on that actuarial experience study;

(J) projected salary increases and payroll growth rate set in consultation with the municipality's finance director; and

(K) payroll for purposes of determining the corridor midpoint and municipal contribution rate must be projected using the annual payroll growth rate assumption, which for purposes of preparing any amortization schedule may not exceed three percent; and

(7) be revised and restated, if appropriate, not later than:

(A) the date required by a written agreement entered into between the municipality and the board; or

(B) the 30th day after the date required action is taken by the board under Section 13E or 13F of this article to reflect any changes required by either section.

(b) As soon as practicable after the end of a fiscal year, the fund actuary at the direction of the fund and the municipal actuary at the direction of the municipality shall separately prepare a proposed risk sharing valuation study based on the fiscal year that just ended.

(c) Not later than September 30 following the end of the fiscal year, the fund shall provide to the municipal actuary, under a confidentiality agreement in which the municipal actuary agrees to comply with the confidentiality provisions of Section 17 of this article, the actuarial data described by Subsection (a)(4) of this section.

(d) Not later than the 150th day after the last day of the fiscal year:

(1) the fund actuary, at the direction of the fund, shall provide the proposed risk sharing valuation study prepared by the fund actuary under Subsection (b) of this section to the municipal actuary; and

(2) the municipal actuary, at the direction of the municipality, shall provide the proposed risk sharing valuation study prepared by the municipal actuary under Subsection (b) of this section to the fund actuary.

(e) Each actuary described by Subsection (d) of this section may provide copies of the proposed risk sharing valuation studies to the municipality or to the fund, as appropriate.

(f) If, after exchanging proposed risk sharing valuation studies under Subsection (d) of this section, it is found that the difference between the estimated municipal contribution rate recommended in the proposed risk sharing valuation study prepared by the fund actuary and the estimated municipal contribution rate recommended in the proposed risk sharing valuation study prepared by the municipal actuary for the corresponding fiscal year is:

(1) less than or equal to two percentage points, the estimated municipal contribution rate recommended by the fund actuary will be the estimated municipal contribution rate for purposes of Subsection (a)(5) of this section, and the proposed risk sharing valuation study prepared for the fund is considered to be the final risk sharing valuation study for the fiscal year for the purposes of this article; or

(2) greater than two percentage points, the municipal actuary and the fund actuary shall have 20 business days to reconcile

the difference, provided that, without the mutual agreement of both actuaries, the difference in the estimated municipal contribution rate recommended by the municipal actuary and the estimated municipal contribution rate recommended by the fund actuary may not be further increased and:

(A) if, as a result of reconciliation efforts under this subdivision, the difference is reduced to less than or equal to two percentage points:

(i) subject to any adjustments under Section 13E or 13F of this article, as applicable, the estimated municipal contribution rate proposed under the reconciliation by the fund actuary will be the estimated municipal contribution rate for purposes of Subsection (a)(5) of this section; and

(ii) the fund's risk sharing valuation study is considered to be the final risk sharing valuation study for the fiscal year for the purposes of this article; or

(B) if, after 20 business days, the fund actuary and the municipal actuary are not able to reach a reconciliation that reduces the difference to an amount less than or equal to two percentage points, subject to any adjustments under Section 13E or 13F of this article, as applicable:

(i) the municipal actuary at the direction of the municipality and the fund actuary at the direction of the fund each shall deliver to the finance director of the municipality and the executive director of the fund a final risk sharing valuation study with any agreed-to changes, marked as the final risk sharing valuation study for each actuary; and

(ii) not later than the 90th day before the first day of the next fiscal year, the finance director and the executive director shall execute a joint addendum to the final risk sharing valuation study received under Subparagraph (i) of this paragraph that is a part of the final risk sharing valuation study for the fiscal year for all purposes and reflects the arithmetic average of the estimated municipal contribution rates for the fiscal year stated by the municipal actuary and the fund actuary in the final risk sharing valuation study for purposes of Subsection (a)(5) of this section.

(g) The assumptions and methods used and the types of actuarial data and financial information used to prepare the initial risk sharing valuation study under Section 13C of this article shall be

used to prepare each subsequent risk sharing valuation study under this section, unless changed based on the actuarial experience study conducted under Section 13D of this article.

(h) The actuarial data provided under Subsection (a)(4) of this section may not include the identifying information of individual members.

Sec. 13C. INITIAL RISK SHARING VALUATION STUDIES; CORRIDOR MIDPOINT. (a) The fund and the municipality shall separately cause their respective actuaries to prepare an initial risk sharing valuation study that is dated as of July 1, 2016, in accordance with this section. An initial risk sharing valuation study must:

(1) except as otherwise provided by this section, be prepared in accordance with Section 13B of this article and, for purposes of Section 13B(a)(4) of this article, be based on actuarial data as of June 30, 2016, or, if actuarial data is not provided, on estimates of actuarial data; and

(2) project the corridor midpoint for 31 fiscal years beginning with the fiscal year beginning July 1, 2017.

(b) If the initial risk sharing valuation study has not been prepared consistent with this section before the year 2017 effective date, as soon as practicable after the year 2017 effective date:

(1) the fund shall provide to the municipal actuary, under a confidentiality agreement, the necessary actuarial data used by the fund actuary to prepare the proposed initial risk sharing valuation study; and

(2) not later than the 30th day after the date the municipal actuary receives the actuarial data:

(A) the municipal actuary, at the direction of the municipality, shall provide a proposed initial risk sharing valuation study to the fund actuary; and

(B) the fund actuary, at the direction of the fund, shall provide a proposed initial risk sharing valuation study to the municipal actuary.

(c) If, after exchanging proposed initial risk sharing valuation studies under Subsection (b)(2) of this section, it is determined that the difference between the estimated municipal contribution rate for any fiscal year recommended in the proposed initial risk sharing valuation study prepared by the fund actuary and the estimated municipal contribution rate for any fiscal year recommended in the proposed initial risk sharing valuation study

prepared by the municipal actuary is:

(1) less than or equal to two percentage points, the estimated municipal contribution rate for that fiscal year recommended by the fund actuary will be the estimated municipal contribution rate for purposes of Section 13B(a)(5) of this article; or

(2) greater than two percentage points, the municipal actuary and the fund actuary shall have 20 business days to reconcile the difference and:

(A) if, as a result of reconciliation efforts under this subdivision, the difference in any fiscal year is reduced to less than or equal to two percentage points, the estimated municipal contribution rate recommended by the fund actuary for that fiscal year will be the estimated municipal contribution rate for purposes of Section 13B(a)(5) of this article; or

(B) if, after 20 business days, the municipal actuary and the fund actuary are not able to reach a reconciliation that reduces the difference to an amount less than or equal to two percentage points for any fiscal year:

(i) the municipal actuary at the direction of the municipality and the fund actuary at the direction of the fund each shall deliver to the finance director of the municipality and the executive director of the fund a final initial risk sharing valuation study with any agreed-to changes, marked as the final initial risk sharing valuation study for each actuary; and

(ii) the finance director and the executive director shall execute a joint addendum to the final initial risk sharing valuation study that is a part of each final initial risk sharing valuation study for all purposes and that reflects the arithmetic average of the estimated municipal contribution rate for each fiscal year in which the difference was greater than two percentage points for purposes of Section 13B(a)(5) of this article.

(d) In preparing the initial risk sharing valuation study, the municipal actuary and fund actuary shall:

(1) adjust the actuarial value of assets to be equal to the market value of assets as of July 1, 2016; and

(2) assume benefit and contribution changes under this article as of the year 2017 effective date.

(e) If the municipal actuary does not prepare an initial risk sharing valuation study for purposes of this section, the fund

actuary's initial risk sharing valuation study will be used as the final risk sharing valuation study for purposes of this article unless the municipality did not prepare a proposed initial risk sharing valuation study because the fund actuary did not provide the necessary actuarial data in a timely manner. If the municipality did not prepare a proposed initial risk sharing valuation study because the fund actuary did not provide the necessary actuarial data in a timely manner, the municipal actuary shall have 60 days to prepare the proposed initial risk sharing valuation study on receipt of the necessary information.

(f) If the fund actuary does not prepare a proposed initial risk sharing valuation study for purposes of this section, the proposed initial risk sharing valuation study prepared by the municipal actuary will be the final risk sharing valuation study for purposes of this article.

(g) The municipality and the board may agree on a written transition plan for resetting the corridor midpoint:

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

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

(h) If the municipality and the board have not entered into an agreement described by Subsection (g) of this section in a given fiscal year, the corridor midpoint will be the corridor midpoint determined for the 31st fiscal year in the initial risk sharing valuation study prepared in accordance with this section.

(i) If the municipality makes a contribution to the fund of at least $5 million more than the amount that would be required by Section 13A(a) of this article, a liability gain layer with the same remaining amortization period as the legacy liability is created and the corridor midpoint shall be decreased by the amortized amount in each fiscal year covered by the liability gain layer produced divided by the projected pensionable payroll.

Sec. 13D. ACTUARIAL EXPERIENCE STUDIES. (a) At least once every four years, the fund actuary at the direction of the fund shall conduct an actuarial experience study in accordance with actuarial standards of practice. The actuarial experience study required by this subsection must be completed not later than September 30 of the year in which the study is required to be conducted.

(b) Except as otherwise expressly provided by Sections

13B(a)(6)(A)-(I) of this article, actuarial assumptions and methods used in the preparation of a risk sharing valuation study, other than the initial risk sharing valuation study, shall be based on the results of the most recent actuarial experience study.

(c) Not later than the 180th day before the date the board may consider adopting any assumptions and methods for purposes of Section 13B of this article, the fund shall provide the municipal actuary with a substantially final draft of the fund's actuarial experience study, including:

(1) all assumptions and methods recommended by the fund actuary; and

(2) summaries of the reconciled actuarial data used in creation of the actuarial experience study.

(d) Not later than the 60th day after the date the municipality receives the final draft of the fund's actuarial experience study under Subsection (c) of this section, the municipal actuary and fund actuary shall confer and cooperate on reconciling and producing a final actuarial experience study. During the period prescribed by this subsection, the fund actuary may modify the recommended assumptions in the draft actuarial experience study to reflect any changes to assumptions and methods to which the fund actuary and the municipal actuary agree.

(e) At the municipal actuary's written request, the fund shall provide additional actuarial data used by the fund actuary to prepare the draft actuarial experience study, provided that confidential data may only be provided subject to a confidentiality agreement in which the municipal actuary agrees to comply with the confidentiality provisions of Section 17 of this article.

(f) The municipal actuary at the direction of the municipality shall provide in writing to the fund actuary and the fund:

(1) any assumptions and methods recommended by the municipal actuary that differ from the assumptions and methods recommended by the fund actuary; and

(2) the municipal actuary's rationale for each method or assumption the actuary recommends and determines to be consistent with standards adopted by the Actuarial Standards Board.

(g) Not later than the 30th day after the date the fund actuary receives the municipal actuary's written recommended assumptions and methods and rationale under Subsection (f) of this section, the fund shall provide a written response to the municipality identifying any

assumption or method recommended by the municipal actuary that the fund does not accept. If any assumption or method is not accepted, the fund shall recommend to the municipality the names of three independent actuaries for purposes of this section.

(h) An actuary may only be recommended, selected, or engaged by the fund as an independent actuary under this section if the person:

(1) is not already engaged by the municipality, the fund, or any other pension system authorized under Article 6243g-4, Revised Statutes, or Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), to provide actuarial services to the municipality, the fund, or another pension system referenced in this subdivision;

(2) is a member of the American Academy of Actuaries; and

(3) has at least five years of experience as an actuary working with one or more public retirement systems with assets in excess of $1 billion.

(i) Not later than the 20th day after the date the municipality receives the list of three independent actuaries under Subsection (g) of this section, the municipality shall identify and the fund shall hire one of the listed independent actuaries on terms acceptable to the municipality and the fund to perform a scope of work acceptable to the municipality and the fund. The municipality and the fund each shall pay 50 percent of the cost of the independent actuary engaged under this subsection. The municipality shall be provided the opportunity to participate in any communications between the independent actuary and the fund concerning the engagement, engagement terms, or performance of the terms of the engagement.

(j) The independent actuary engaged under Subsection (i) of this section shall receive on request from the municipality or the fund:

(1) the fund's draft actuarial experience study, including all assumptions and methods recommended by the fund actuary;

(2) summaries of the reconciled actuarial data used to prepare the draft actuarial experience study;

(3) the municipal actuary's specific recommended assumptions and methods together with the municipal actuary's written rationale for each recommendation;

(4) the fund actuary's written rationale for its recommendations; and

(5) if requested by the independent actuary and subject to

a confidentiality agreement in which the independent actuary agrees to comply with the confidentiality provisions of Section 17 of this article, additional confidential actuarial data.

(k) Not later than the 30th day after the date the independent actuary receives all the requested information under Subsection (j) of this section, the independent actuary shall advise the fund and the municipality whether it agrees with the assumption or method recommended by the municipal actuary or the corresponding method or assumption recommended by the fund actuary, together with the independent actuary's rationale for making the determination. During the period prescribed by this subsection, the independent actuary may discuss recommendations in simultaneous consultation with the fund actuary and the municipal actuary.

(l) The fund and the municipality may not seek any information from any prospective independent actuary about possible outcomes of the independent actuary's review.

(m) If an independent actuary has questions or concerns regarding an engagement entered into under this section, the independent actuary shall simultaneously consult with both the municipal actuary and the fund actuary regarding the questions or concerns. This subsection does not limit the fund's authorization to take appropriate steps to complete the engagement of the independent actuary on terms acceptable to both the fund and the municipality or to enter into a confidentiality agreement with the independent actuary, if needed.

(n) If the board does not adopt an assumption or method recommended by the municipal actuary to which the independent actuary agrees, or recommended by the fund actuary, the municipal actuary is authorized to use that recommended assumption or method in connection with preparation of a subsequent risk sharing valuation study under Section 13B of this article until the next actuarial experience study is conducted.

Sec. 13E. MUNICIPAL CONTRIBUTION RATE WHEN ESTIMATED MUNICIPAL CONTRIBUTION RATE LOWER THAN CORRIDOR MIDPOINT; AUTHORIZATION FOR CERTAIN ADJUSTMENTS. (a) This section governs the determination of the municipal contribution rate applicable in a fiscal year if the estimated municipal contribution rate is lower than the corridor midpoint.

(b) If the funded ratio is:

(1) less than 90 percent, the municipal contribution rate

for the fiscal year equals the corridor midpoint; or

(2) equal to or greater than 90 percent and the municipal contribution rate is:

(A) equal to or greater than the minimum contribution rate, the estimated municipal contribution rate is the municipal contribution rate for the fiscal year; or

(B) except as provided by Subsection (e) of this section, less than the minimum contribution rate for the corresponding fiscal year, the municipal contribution rate for the fiscal year equals the minimum contribution rate achieved in accordance with Subsection (c) of this section.

(c) For purposes of Subsection (b)(2)(B) of this section, the following adjustments shall be applied sequentially to the extent required to increase the estimated municipal contribution rate to equal the minimum contribution rate:

(1) first, adjust the actuarial value of assets equal to the current market value of assets, if making the adjustment causes the municipal contribution rate to increase;

(2) second, under a written agreement between the municipality and the board entered into not later than April 30 before the first day of the next fiscal year, reduce the assumed rate of return;

(3) third, under a written agreement between the municipality and the board entered into not later than April 30 before the first day of the next fiscal year, prospectively restore all or part of any benefit reductions or reduce increased employee contributions, in each case made after the year 2017 effective date; and

(4) fourth, accelerate the payoff year of the existing liability loss layers, including the legacy liability, by accelerating the oldest liability loss layers first, to an amortization period that is not less than 10 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability loss layer is first recognized.

(d) If the funded ratio is:

(1) equal to or greater than 100 percent:

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

(B) the applicable fiscal year is the payoff year for

the legacy liability; and

(C) for each fiscal year subsequent to the fiscal year described by Paragraph (B) of this subdivision, the corridor midpoint shall be determined as provided by Section 13C(g) of this article; and

(2) greater than 100 percent in a written agreement between the municipality and the fund, the fund may reduce member contributions or increase pension benefits if, as a result of the action:

(A) the funded ratio is not less than 100 percent; and

(B) the municipal contribution rate is not more than the minimum contribution rate.

(e) Except as provided by Subsection (f) of this section, if an agreement under Subsection (d) of this section is not reached on or before April 30 before the first day of the next fiscal year, before the first day of the next fiscal year the board shall reduce member contributions and implement or increase cost-of-living adjustments, but only to the extent that the municipal contribution rate is set at or below the minimum contribution rate and the funded ratio is not less than 100 percent.

(f) If any member contribution reduction or benefit increase under Subsection (e) of this section has occurred within the previous three fiscal years, the board may not make additional adjustments to benefits, and the municipal contribution rate must be set to equal the minimum contribution rate.

Sec. 13F. MUNICIPAL CONTRIBUTION RATE WHEN ESTIMATED MUNICIPAL CONTRIBUTION RATE EQUAL TO OR GREATER THAN CORRIDOR MIDPOINT; AUTHORIZATION FOR CERTAIN ADJUSTMENTS. (a) This section governs the determination of the municipal contribution rate in a fiscal year when the estimated municipal contribution rate is equal to or greater than the corridor midpoint.

(b) If the estimated municipal contribution rate is:

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

(2) except as provided by Subsection (d) or (e) of this section, greater than the maximum contribution rate for the corresponding fiscal year, the municipal contribution rate equals the corridor midpoint achieved in accordance with Subsection (c) of this section.

(c) For purposes of Subsection (b)(2) of this section, the following adjustments shall be applied sequentially to the extent required to decrease the estimated municipal contribution rate to equal the corridor midpoint:

(1) first, if the payoff year of the legacy liability was accelerated under Section 13E(c) of this article, extend the payoff year of existing liability loss layers, by extending the most recent loss layers first, to a payoff year not later than 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability loss layer is first recognized; and

(2) second, adjust the actuarial value of assets to the current market value of assets, if making the adjustment causes the municipal contribution rate to decrease.

(d) If the municipal contribution rate after adjustment under Subsection (c) of this section is greater than the third quarter line rate:

(1) the municipal contribution rate equals the third quarter line rate; and

(2) to the extent necessary to comply with Subdivision (1) of this subsection, the municipality and the board shall enter into a written agreement to increase member contributions and make other benefit or plan changes not otherwise prohibited by applicable federal law or regulations.

(e) If an agreement under Subsection (d)(2) of this section is not reached on or before April 30 before the first day of the next fiscal year, before the start of the next fiscal year to which the municipal contribution rate would apply, the board, to the extent necessary to set the municipal contribution rate equal to the third quarter line rate, shall:

(1) increase member contributions and decrease cost-of-living adjustments;

(2) increase the normal retirement age; or

(3) take any combination of actions authorized under Subdivisions (1) and (2) of this subsection.

(f) If the municipal contribution rate remains greater than the corridor midpoint in the third fiscal year after adjustments are made in accordance with Subsection (d)(2) of this section, in that fiscal year the municipal contribution rate equals the corridor midpoint achieved in accordance with Subsection (g) of this section.

(g) The municipal contribution rate must be set at the corridor midpoint under Subsection (f) of this section by:

(1) in the risk sharing valuation study for the third fiscal year described by Subsection (f) of this section, adjusting the actuarial value of assets to equal the current market value of assets, if making the adjustment causes the municipal contribution rate to decrease; and

(2) under a written agreement entered into between the municipality and the board:

(A) increasing member contributions; and

(B) making any other benefit or plan changes not otherwise prohibited by applicable federal law or regulations.

(h) If an agreement under Subsection (g)(2) of this section is not reached on or before April 30 before the first day of the next fiscal year, before the start of the next fiscal year, the board, to the extent necessary to set the municipal contribution rate equal to the corridor midpoint, shall:

(1) increase member contributions and decrease cost-of-living adjustments;

(2) increase the normal retirement age; or

(3) take any combination of actions authorized under Subdivisions (1) and (2) of this subsection.

Sec. 13G. INTERPRETATION OF CERTAIN RISK SHARING PROVISIONS; UNILATERAL DECISIONS AND ACTIONS PROHIBITED. (a) Nothing in this article, including Section 2(p) or (p-1) of this article and any authority of the board to construe and interpret this article, to determine any fact, to take any action, or to interpret any terms used in Sections 13A through 13F of this article, may alter or change Sections 13A through 13F of this article.

(b) No unilateral decision or action by the board is binding on the municipality and no unilateral decision or action by the municipality is binding on the fund with respect to the application of Sections 13A through 13F of this article unless expressly provided by a provision of those sections. Nothing in this subsection is intended to limit the powers or authority of the board.

(c) Section 10 of this article does not apply to a benefit increase under Section 13E of this article, and Section 10 of this article is suspended while Sections 13A through 13F of this article are in effect.

Sec. 13H. STATE PENSION REVIEW BOARD; REPORT. (a) After

preparing a final risk sharing valuation study under Section 13B or 13C of this article, the fund and the municipality shall jointly submit a copy of the study or studies, as appropriate, to the State Pension Review Board for a determination that the fund and municipality are in compliance with this article.

(b) Not later than the 30th day after the date an action is taken under Section 13E or 13F of this article, the fund shall submit a report to the State Pension Review Board regarding any actions taken under those sections.

(c) The State Pension Review Board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the legislative committees having principal jurisdiction over legislation governing public retirement systems if the State Pension Review Board determines the fund or the municipality is not in compliance with Sections 13A through 13G of this article.

Sec. 14. INTERNAL REVENUE CODE LIMITATIONS. (a) Notwithstanding any other provision of this article, a member may not accrue a benefit or allowance under this article in excess of an amount that, when added to all other pension benefits received under plans of the municipality that are qualified under Section 401 of the code, results in an annual benefit in excess of the applicable limits provided by Section 415 of the code. That accrual limitation applies only as long as satisfaction of Section 415 of the code is necessary to maintain the tax-qualified status of the fund under Section 401 of the code. Any benefit accruals limited under this subsection must be determined by a qualified actuary selected by the board.

(b) Notwithstanding any other provision of this article, the fund shall be administered in a manner that complies with the code, United States Treasury Department regulations, and Internal Revenue Service rulings and notices applicable to public retirement systems. The board shall adopt rules and amend or repeal conflicting rules to ensure compliance with this subsection.

(c) The board may establish and maintain a qualified governmental excess benefit arrangement, in accordance with Section 415(m) of the code, solely for the purpose of providing to members the amount of each member's pension benefit otherwise payable under the fund that exceeds the limitations on benefits imposed by Section 415 of the code. The board may maintain a separate trust solely for providing benefits under the arrangement or may maintain the arrangement on an unfunded basis through municipal contributions as

benefits become payable. Benefits provided by that arrangement may not be paid from the trust fund assets that are available for payment of any other benefit under this article. Benefits under any qualified governmental excess benefit arrangement shall be paid or funded entirely through municipal contributions in an amount approved by the board. An election may not be provided at any time to a member, directly or indirectly, to defer compensation under the arrangement. The operation and administration of any qualified governmental excess benefit arrangement is the responsibility of the board, which has the same powers concerning the arrangement as are provided to the board under this article concerning the fund.

Sec. 15. EXEMPTION OF BENEFITS FROM JUDICIAL PROCESS. The fund may not, either before or after its order of disbursement by the board to a member, a spouse eligible to receive a benefit under the DROP, an eligible spouse, the guardian of an eligible child, or an eligible parent, be held, seized, subjected to, or levied on by virtue of any execution, attachment, garnishment, injunction, or other writ, order, or decree, or any process issued out of, or by, any court for the payment or satisfaction of any debt, damage, claim, demand, or judgment against a member, a spouse eligible to receive a benefit under the DROP, an eligible spouse, the guardian of an eligible child, or an eligible parent. The fund or any claim against the fund may not be directly or indirectly assigned or transferred, and any attempt to assign or transfer the fund or a claim is void. The fund shall be sacredly held, kept, and disbursed only for the purposes provided by this article.

Sec. 16. SERVICE CREDIT FOR MEMBERS PREVIOUSLY MEMBERS OF SIMILAR FUNDS. (a) A person who becomes a firefighter in a municipality to which this article applies may receive service credit for prior employment with the fully paid fire department of another municipality in this state with a similar fund benefiting only firefighters of that municipality to which the firefighter contributed if:

(1) the firefighter is under 36 years of age at the time of applying to the fund;

(2) the firefighter passes a physical examination;

(3) the firefighter pays into the fund an amount equal to the total contribution the firefighter would have made had the firefighter been employed by the municipality, at the municipality's pay scale, instead of the municipality by which the firefighter was

previously employed, plus six percent interest, compounded annually;

(4) the firefighter applies for that credit not later than the 60th day after the date on which membership begins; and

(5) the firefighter has moved directly into employment at the fire department from the fire department for which the prior service credit is sought, without any intervening employment or extended interruption.

(b) A member may receive credit for prior service in more than one fire department under Subsection (a) of this section only if there have not been interruptions in employment and each preceding service meets the other requirements of Subsection (a) of this section.

(c) The municipality to which the member has transferred shall pay an amount equal to the amount it would have paid had the member been employed by that municipality instead of the municipality by which the firefighter was previously employed, based on the municipality's pay scale, plus six percent interest, compounded annually. Both the municipality's contribution and the member's contribution must be paid promptly on approval of the member's application for service credit.

(d) A firefighter may not participate under this section in the fund of the municipality to which the firefighter has transferred until the firefighter has fully complied with this article and the municipality has complied with Subsection (c) of this section.

(e) A firefighter eligible for prior service credit may participate in the fund, subject to the other requirements of this article, without obtaining that credit, and if the firefighter does not comply with the provisions and time limits of this section, the firefighter is ineligible for the credit.

Sec. 17. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS OR BENEFICIARIES. (a) Information contained in records that are in the custody of a fund established under this article concerning an individual member, retiree, or beneficiary is not public information under Chapter 552, Government Code. The information may not be disclosed in a form identifiable with a specific individual unless:

(1) the information is disclosed to:

(A) the individual;

(B) the individual's attorney, guardian, executor, administrator, or conservator, or other legal representative of the individual's estate or court-approved small estate or other person

who the board determines is acting in the interest of the individual or the individual's estate;

(C) a spouse or former spouse of the individual, or the attorney of the spouse or former spouse, if the information concerns the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the fund; or

(D) a person with written authorization from the individual to receive the information; or

(2) the information is disclosed under an authorization of the board that specifies the reason for the disclosure.

(b) Notwithstanding Subsection (a) of this section, the fund may disclose the status or identity of an individual as a member, former member, retiree, deceased member, or beneficiary of the fund, as well as the individual's dates of service, date of death, last rank held, and the divisions of the fire department of the municipality in which service has been rendered.

(c) A determination and disclosure under Subsection (a)(2) of this section may be made without notice to the individual member, retiree, or beneficiary.

(d) The release of information concerning members, retirees, or beneficiaries to departments of the municipality, or to other municipal employee pension funds or systems of the municipality, in order to implement or advance the purposes of this article is permitted under this section. The release of that information does not constitute any waiver of confidentiality by the fund or any waiver as to confidentiality of the information under the statutes and policies governing the receiving municipal department or employee pension fund or system.

(e) The publication and provision by the fund of a retiree's address, e-mail address, telephone number, dates of service, and last rank held and of the divisions of the fire department of the municipality in which service was rendered, within compilations or directories of this information concerning fund retirees, is permitted under this section. The fund, in its sole discretion, may provide or distribute those compilations as it deems is in the best interest of the retirees in general. A retiree may prevent the publication under this subsection of information relating to the retiree by giving advance written notice to the fund.

(f) To carry out the provisions of Sections 13A through 13F of this article, the board and the fund must provide the municipal

actuary under a confidentiality agreement the actuarial data used by the fund actuary for the fund's actuarial valuations or valuation studies and other data as agreed to between the municipality and the fund that the municipal actuary determines is reasonably necessary for the municipal actuary to perform the studies required by Sections 13A through 13F of this article. Actuarial data described by this subsection does not include information described by Subsection (a) of this section.

(g) A risk sharing valuation study prepared by either the municipal actuary or the fund actuary under Sections 13A through 13F of this article may not:

(1) include information described by Subsection (a) of this section; or

(2) provide confidential or private information regarding specific individuals or be grouped in a manner that allows confidential or private information regarding a specific individual to be discerned.

(h) The information, data, and document exchanges under Sections 13A through 13F of this article have all the protections afforded by applicable law and are expressly exempt from the disclosure requirements under Chapter 552, Government Code, except as may be agreed to by the municipality and fund in a written agreement.

(i) Subsection (h) of this section does not apply to:

(1) a proposed risk sharing valuation study prepared by the fund actuary and provided to the municipal actuary or prepared by the municipal actuary and provided to the fund actuary under Section 13B(d) or 13C(b)(2); or

(2) a final risk sharing valuation study prepared under Section 13B or 13C of this article.

(j) Before a union contract is approved by the municipality, the mayor of the municipality shall cause the municipal actuaries to deliver to the mayor a report estimating the impact of the proposed union contract on fund costs.

Sec. 18. PROPORTIONAL RETIREMENT PROGRAM. (a) In this section:

(1) "Combined service credit" means the total amount of service credit a member has for participation in the fund plus service credit the member has in any participating retirement system.

(2) "Participating retirement system" means the retirement system established under Article 6243g-4, Revised Statutes, or

Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), or a successor statute to either of those laws.

(3) "Program" means a proportional retirement benefits program established under this section that permits members to establish service credit for a proportional retirement benefit using combined service credit.

(4) "Service credit" means service or participation that is credited under the fund or a participating retirement system to establish service or participation requirements for a proportional retirement benefit.

(b) The board may maintain a proportional retirement program under this section.

(c) Under the program, a member who is eligible to participate may use combined service credit to determine eligibility for a benefit under this article. The member must have at least 20 years of combined service credit to receive a proportional retirement benefit. The member is subject to the same requirements and receives the same benefits, including enhancements, as a member who establishes retirement eligibility for the same amount of service credit without using combined service credit.

(d) A member may not:

(1) use service credit in a participating retirement system to meet the eligibility requirements for participating in a DROP under Section 5 of this article;

(2) receive service credit in the fund for the same service for which the member receives service credit in a participating retirement system; or

(3) receive a benefit under the program in an amount that is greater than the amount the member would have received for the same benefit without the program unless the greater amount results from a modification under Subsection (j) of this section.

(e) A person is eligible to participate in the program if the person is employed by the city, is covered by a participating retirement system, and is or has been a member of the fund.

(f) A member who is retired or participating in a DROP under Section 5 of this article may not participate in the program. A member may not receive a disability retirement benefit and a service retirement benefit under the program.

(g) In determining proportional retirement benefits under the

program for a member who has participated in the fund for less than 20 years, the member is entitled to a monthly benefit in an amount equal to 1.7 percent of the member's average monthly salary multiplied by the number of the member's years of participation in the fund.

(h) A member who receives a disability benefit under a participating retirement system may receive a proportional disability benefit under the program as provided by Subsection (i) of this section.

(i) In determining disability retirement benefits under the program, the member is entitled to a monthly benefit in an amount equal to 1.7 percent of the member's average monthly salary multiplied by the number of the member's years of participation in the fund.

(j) The board may modify the program only to make the program's provisions compatible with the provisions of a participating retirement system. The board may not modify the program for the purpose of providing a new benefit to a member.

(k) If the board determines that the provisions governing a participating retirement system are not compatible with the provisions governing the fund under this article, the board may terminate the program. The board shall provide written notice to the executive director of the participating retirement system before the 30th day preceding the date of the program's termination. The board may reestablish the program at its discretion, subject to the requirements of this section.

(l) The board may adopt rules to implement and administer this section.

Added by Acts 1997, 75th Leg., ch. 1268, Sec. 1, eff. Nov. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 211, Sec. 1 to 10, eff. Nov. 1, 1999; Acts 2001, 77th Leg., ch. 87, Sec. 1 to 5, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 87, Sec. 6, eff. Oct. 1, 2001.
Sec. 1(1) amended by Acts 2003, 78th Leg., ch. 333, Sec. 1, eff. Sept. 1, 2003; Sec. 1(1-a) added by Acts 2003, 78th Leg., ch. 333, Sec. 1, eff. Sept. 1, 2003; Sec. 1(7) amended by Acts 2003, 78th Leg., ch. 333, Sec. 1, eff. Sept. 1, 2003; Sec. 2(b) amended by Acts 2003, 78th Leg., ch. 333, Sec. 2, eff. Sept. 1, 2003; Sec. 3(j) to (m) added by Acts 2003, 78th Leg., ch. 333, Sec. 3, eff. Sept. 1, 2003; ; Sec. 4(d) amended by Acts 2003, 78th Leg., ch. 333, Sec. 4,

eff. Sept. 1, 2003; Sec. 5(a), (c) to (e), (g), (i) to (k), and (m) amended by Acts 2003, 78th Leg., ch. 333, Sec. 5, eff. Sept. 1, 2003; Sec. 6(g) and (h) amended by Acts 2003, 78th Leg., ch. 333, Sec. 6, eff. Sept. 1, 2003; Sec. 6(i) added by Acts 2003, 78th Leg., ch. 333, Sec. 6, eff. Sept. 1, 2003; Sec. 7(b), (e), and (g) amended by Acts 2003, 78th Leg., ch. 333, Sec. 7, eff. Sept. 1, 2003; Sec. 11(b), (d), (f), (h), and (m) amended by Acts 2003, 78th Leg., ch. 333, Sec. 8, eff. Sept. 1, 2003; Sec. 11(n) and (o) added by Acts 2003, 78th Leg., ch. 333, Sec. 8, eff. Sept. 1, 2003; Sec. 13(c) and (d) amended by Acts 2003, 78th Leg., ch. 333, Sec. 9, eff. Sept. 1, 2003; Sec. 13(h) repealed by Acts 2003, 78th Leg., ch. 333, Sec. 13, eff. Sept. 1, 2003; Sec. 16(a) amended by Acts 2003, 78th Leg., ch. 333, Sec. 10, eff. Sept. 1, 2003; Sec. 17(a) and (b) amended by Acts 2003, 78th Leg., ch. 333, Sec. 11, eff. Sept. 1, 2003; Sec. 17(d) and (e) added by Acts 2003, 78th Leg., ch. 333, Sec. 11, eff. Sept. 1, 2003; Sec. 18(b) amended by Acts 2003, 78th Leg., ch. 333, Sec. 12, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 136 (H.B. 1390), Sec. 1, eff. May 18, 2007.

Acts 2007, 80th Leg., R.S., Ch. 136 (H.B. 1390), Sec. 2, eff. May 18, 2007.

Acts 2007, 80th Leg., R.S., Ch. 136 (H.B. 1390), Sec. 3, eff. May 18, 2007.

Acts 2007, 80th Leg., R.S., Ch. 136 (H.B. 1390), Sec. 4, eff. May 18, 2007.

Acts 2007, 80th Leg., R.S., Ch. 136 (H.B. 1390), Sec. 5, eff. May 18, 2007.

Acts 2007, 80th Leg., R.S., Ch. 136 (H.B. 1390), Sec. 6, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 136 (H.B. 1390), Sec. 7, eff. May 18, 2007.

Acts 2007, 80th Leg., R.S., Ch. 136 (H.B. 1390), Sec. 8, eff. May 18, 2007.

Acts 2007, 80th Leg., R.S., Ch. 136 (H.B. 1390), Sec. 9, eff. May 18, 2007.

Acts 2007, 80th Leg., R.S., Ch. 136 (H.B. 1390), Sec. 10, eff. May 18, 2007.

Acts 2007, 80th Leg., R.S., Ch. 136 (H.B. 1390), Sec. 11, eff. May 18, 2007.

Acts 2007, 80th Leg., R.S., Ch. 136 (H.B. 1390), Sec. 12, eff. May 18, 2007.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 1.01, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 1.02, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 1.03, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 1.04, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 1.05, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 1.06, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 1.07, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 1.08, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 1.09, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 1.10, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 1.11, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch.320 (S.B. 2190), Sec. 1.12, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 1.13, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 1.14, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 1.15, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 1.16, eff. July 1, 2017.

Art. 6243e-2. FIREMEN'S PENSIONS IN CITIES OF 350,000 TO 400,000. Any city having a population of three hundred fifty thousand (350,000) or more, but less than four hundred thousand (400,000) according to the last preceding Federal Census and having a

full time regularly organized fire department and having an established municipal employees retirement plan shall be authorized to provide for the retirement of its firemen by appropriate ordinance under the terms and provisions of such employees retirement plan if the benefits provided by such employees retirement plan are substantially as advantageous as the benefits provided by Chapter 125, Acts of the 45th Legislature, as amended (Article 6243e, Vernon's Civil Statutes of the State of Texas).

Upon adoption of an appropriate ordinance, all of the assets of the Firemen's Relief and Retirement Fund shall be transferred to the Municipal Employees' Retirement Fund and thereafter those persons serving as active firemen duly enrolled or contributing to the fund shall be subject to all provisions of such Municipal Employees' Retirement Fund and the Municipal Employees' Retirement Fund of such city shall assume all liabilities and obligations of the Firemen's Relief and Retirement Fund at the date of transfer. Thereafter such Municipal Employees' Retirement Fund as combined shall not be subject to the provisions of Chapter 125, Acts of the 45th Legislature, as amended (Article 6243e, Vernon's Civil Statutes of the State of Texas).

Provided, however, nothing contained in this Act shall be held or construed to affect or impair any act done or right vested or accrued under Article 6243e, V.A.C.S., pending in any proceeding, suit, or prosecution had or commenced in any cause thereunder, be it before the courts, the Firemen's Pension Commissioner, or the Board of Firemen's Relief and Retirement Fund Trustees; but every act done, or right vested or accrued, or proceeding, suit or prosecution had or commenced shall remain in full force and effect to all intents as if Article 6243e, V.A.C.S., were applicable thereto and any and all liabilities existing under this proviso, be they vested, accrued or contingent, shall be the obligations of the Municipal Employees' Retirement Fund.

Acts 1963, 58th Leg., p. 54, ch. 36, eff. April 1, 1963.

Art. 6243e-3. FIREMEN'S DEATH AND DISABILITY BENEFITS; HEART OR LUNG DISEASE.

Section 1. The Board of Trustees of any firemen's pension fund

in any incorporated city or town in this State may, upon fulfilling requirements hereinafter stated, establish benefit eligibility for a fulltime employee who has been employed for as long as six (6) years, and thereafter becomes disabled or dies from heart or lung disease, based on a presumption that such death or disease was a consequence of his duties as a fireman, if the fireman shall have successfully passed a physical examination prior to the claimed disability or death, or upon entering upon his employment as a fireman, and the examination failed to reveal any evidence of the condition or disease of the lungs, hypertension or heart disease.

Sec. 2. Before any such Board shall adopt as part of its plan for retirement benefits the presumption, together with qualifications, set forth in Section 1 hereof, it shall take the following preliminary step(s):

(a) Obtain an actuarial study showing how the proposed change in benefit eligibility standards will affect the financial condition of the fund.

(b) In the event that such actuarial study shows that inclusion of the proposed change in benefit eligibility standards will not make the fund financially unsound, then said Board shall, within thirty days after receipt of such actuarial study, hold an election in which the active participants contributing to the fund shall vote on the question of whether such benefit eligibility standard should be instituted, said Board being bound by the results of such election.

Acts 1971, 62nd Leg., p. 2392, ch. 747, eff. Aug. 30, 1971.

Art. 6243f-1. INVOLUNTARY RETIREMENT OF FIRE FIGHTERS IN CITIES OF 400,000 TO 450,000; AGE; DISABILITY.

Sec. 1. No member of a fire department in any city or town in this state having a population of not less than 700,000 nor more than 750,000 shall be involuntarily retired prior to reaching the mandatory retirement age set for such cities' employees unless he is physically unable to perform his duties. In the event he is physically unable to perform his duties, he shall be allowed to use all of his accumulated sick leave, before retirement.

Sec. 2. As used in this Act, "the last preceding federal census" means the 1970 census or any future decennial federal census. This

is despite any legislation that has been or may be enacted during any session of the 62nd Legislature delaying the effectiveness of the 1970 census for general State and local governmental purposes.

Acts 1971, 62nd Leg., p. 863, ch. 103, eff. April 30, 1971. Amended by Acts 1981, 67th Leg., p. 593, ch. 237, Sec. 125, eff. Sept. 1, 1981; Acts 1991, 72nd Leg., ch. 597, Sec. 49, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 167, eff. Sept. 1, 2001.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 193, eff. September 1, 2011.

Art. 6243g-4. POLICE OFFICERS PENSION SYSTEM IN CERTAIN MUNICIPALITIES.

Sec. 1. PURPOSE. The purpose of this article is to restate and amend the provisions of former law creating and governing a police officers pension system in each city in this state having a population of two million or more, according to the most recent federal decennial census, and to reflect changes agreed to by the city and the board of trustees of the pension system under Section 27 of this article. The pension system shall continue to operate regardless of whether the city's population falls below two million.

Sec. 1A. INTERPRETATION OF ARTICLE. This article does not and may not be interpreted to:

(1) relieve the city, the board, or the pension system of their respective obligations under Sections 9 through 9E of this article;

(2) reduce or modify the rights of the city, the board, or the pension system, including any officer or employee of the city, board, or pension system, to enforce obligations described by Subdivision (1) of this section;

(3) relieve the city, including any official or employee of the city, from:

(A) paying or directing to pay required contributions to the pension system under Section 8 or 9 of this article or carrying out the provisions of Sections 9 through 9E of this article; or

(B) reducing or modifying the rights of the board and

any officer or employee of the board or pension system to enforce obligations described by Subdivision (1) of this section;

(4) relieve the pension system or board, including any officer or employee of the pension system or board, from any obligation to implement a benefit change or carry out the provisions of Sections 9 through 9E of this article; or

(5) reduce or modify the rights of the city and any officer or employee of the city to enforce an obligation described by Subdivision (4) of this section.

Sec. 2. DEFINITIONS. In this article:

(1) "Active member" means an employee of the city within the police department of a city subject to this article, in a classified or appointed position, except for a person in an appointed position who opts out of the plan, a person who is a part-time, seasonal, or temporary employee, or a person who elected to remain a member of a pension system described by Chapter 88, Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes). The term does not include a person who is a member of another pension system of the same city, except to the extent provided by Section 18 of this article.

(1-a) "Actuarial data" includes:

(A) the census data, assumption tables, disclosure of methods, and financial information that are routinely used by the pension system actuary for the pension system's valuation studies or an actuarial experience study under Section 9C of this article; and

(B) other data that is reasonably necessary to implement Sections 9 through 9E of this article, as agreed to by the city and the board.

(1-b) "Actuarial experience study" has the meaning assigned by Section 802.1014, Government Code.

(1-c) "Amortization period" means the time period necessary to fully pay a liability layer.

(2) "Amortization rate" means the sum of the scheduled amortization payments for a given fiscal year for the current liability layers divided by the projected pensionable payroll for that fiscal year.

(3) "Assumed rate of return" means the assumed market rate of return on pension system assets, which is seven percent per annum unless adjusted as provided by this article.

(4) "Board" means the board of trustees of the pension

system.

(4-a) "Catastrophic injury" means a sudden, violent, life-threatening, duty-related injury sustained by an active member that is due to an externally caused motor vehicle accident, gunshot wound, aggravated assault, or other external event or events and results, as supported by evidence, in one of the following conditions:

(A) total, complete, and permanent loss of sight in one or both eyes;

(B) total, complete, and permanent loss of the use of one or both feet at or above the ankle;

(C) total, complete, and permanent loss of the use of one or both hands at or above the wrist;

(D) injury to the spine that results in a total, permanent, and complete paralysis of both arms, both legs, or one arm and one leg; or

(E) an externally caused physical traumatic injury to the brain rendering the member physically or mentally unable to perform the member's duties as a police officer.

(4-b) "City" means a city subject to this article.

(4-c) "City contribution rate" means a percent of pensionable payroll that is the sum of the employer normal cost rate and the amortization rate for liability layers, except as determined otherwise under the express provisions of Sections 9D and 9E of this article.

(4-d) "Classified" means any person classified by the city as a police officer.

(5) "Code" means the federal Internal Revenue Code of 1986, or any successor, as amended.

(5-a) "Corridor" means the range of city contribution rates that are:

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

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

(5-b) "Corridor margin" means five percentage points.

(5-c) "Corridor midpoint" means the projected city contribution rate specified for each fiscal year for 31 years in the initial risk sharing valuation study under Section 9B of this article, as may be adjusted under Section 9D or 9E of this article, and in each case rounded to the nearest hundredths decimal place.

(6) "Dependent" means a dependent child or a dependent parent.

(7) "Dependent child" means a deceased member's unmarried natural or adopted child who:

(A) has not attained age 18;

(B) has attained age 18 but not age 24 and is attending school on a full-time basis; or

(C) has attained age 18 and is permanently disabled as the result of a disability that began before the child attained age 18.

(8) "Dependent parent" means a natural parent of a deceased member or an adoptive parent who adopted the member before the member attained age 18 and at least 50 percent of whose support was received from the member during the one-year period preceding the date of death of the member.

(9) "DROP" means the deferred retirement option plan described by Section 14 of this article.

(10) "Employee" means an individual who holds a classified position in the police department of a city subject to this article.

(10-a) "Employer normal cost rate" means the normal cost rate minus the member contribution rate.

(10-b) "Estimated city contribution rate" means the city contribution rate estimated in a final risk sharing valuation study under Section 9A or 9B of this article, as applicable, as required by Section 9A(a)(5) of this article.

(10-c) "Fiscal year," except as provided by Section 2A of this article, means a fiscal year beginning July 1 and ending June 30.

(10-d) "Final average pay" means the pay received by a member over the last 78 biweekly pay periods ending before the earlier of:

(A) the date the member terminates employment with the police department, divided by 36; or

(B) the date the member began participation in DROP, divided by 36.

(11) "Former member" means a person who was once an active member, eligible for benefits or not, but who terminated active member status and received a refund of member contributions.

(12) "Fund" means the fund originally established by Chapter 76, Acts of the 50th Legislature, Regular Session, 1947

(Article 6243g-1, Vernon's Texas Civil Statutes).

(12-a) "Funded ratio" means the ratio of the pension system's actuarial value of assets divided by the pension system's actuarial accrued liability.

(13) "Inactive member" means a person who has separated from service and is eligible to receive a service pension from the pension system but is not eligible for an immediate service pension. The term does not include a former member.

(13-a) "Legacy liability" means the unfunded actuarial accrued liability as of June 30, 2016, as reduced to reflect:

(A) changes to benefits and contributions under this article that took effect on the year 2017 effective date;

(B) the deposit of pension obligation bond proceeds on December 31, 2017, in accordance with Section 9B(j)(2) of this article;

(C) payments by the city and earnings at the assumed rate of return allocated to the legacy liability from July 1, 2016, to July 1, 2017, excluding July 1, 2017; and

(D) for each subsequent fiscal year, contributions for that year allocated to the amortization of the legacy liability and adjusted by the assumed rate of return.

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

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

(13-d) "Liability layer" means the legacy liability established in the initial risk sharing valuation study under Section 9B of this article and the unanticipated change as established in each subsequent risk sharing valuation study prepared under Section 9A of this article.

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

(13-f) "Maximum contribution rate" means the rate equal to the corridor midpoint plus the corridor margin.

(14) "Member" means an active member, inactive member, or retired member, as the context may require. The term does not include a former member.

(14-a) "Minimum contribution rate" means the rate equal to the corridor midpoint minus the corridor margin.

(14-b) "Normal cost rate" means the salary weighted average of the individual normal cost rates determined for the current active population plus an allowance for projected administrative expenses. The allowance for projected administrative expenses equals the administrative expenses divided by the pensionable payroll for the previous fiscal year, provided the administrative allowance may not exceed one percent of pensionable payroll for the current fiscal year unless agreed to by the city.

(14-c) "Normal retirement age" means:

(A) for a member hired before October 9, 2004, including a member hired before October 9, 2004, who involuntarily separated from service but was retroactively reinstated under an arbitration, civil service, or court ruling after October 9, 2004, the earlier of:

(i) the age at which the member attains 20 years of service; or

(ii) the age at which the member first attains both the age of at least 60 and at least 10 years of service; or

(B) except as provided by Paragraph (A) of this subdivision, for a member hired or rehired on or after October 9, 2004, the age at which the sum of the member's age in years and years of service equals at least 70.

(15) "Normal retirement date" means the date at which a member is eligible for an immediate service pension under Section 12 of this article.

(15-a) "Pay," unless the context requires otherwise, means wages as defined by Section 3401(a) of the code, plus any amounts that are not included in gross income by reason of Section 104(a)(1), 125, 132(f), 402(g)(2), 457, or 414(h)(2) of the code, less any pay received for overtime work, exempt time pay, strategic officer staffing program pay, motorcycle allowance, clothing allowance, or mentor pay. The definition of "pay" for purposes of this article may only be amended by written agreement of the board and the city under Section 27 of this article.

(15-b) "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.

(16) "Pension" means a monthly payment for life from the

fund to a retired member.

(16-a) "Pension obligation bond" means a bond issued in accordance with Chapter 107, Local Government Code.

(16-b) "Pensionable payroll" means the combined salaries, 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.

(17) "Pension system" or "system," unless the context requires otherwise, means the retirement and disability plan for employees of any police department subject to this article.

(17-a) "Police department" means one or more law enforcement agencies designated as a police department by a city.

(17-b) "Price inflation assumption" means:

(A) the most recent headline consumer price index 10-year forecast published in the Federal Reserve Bank of Philadelphia Survey of Professional Forecasters; or

(B) if the forecast described by Paragraph (A) of this subdivision is not available, another standard as determined by mutual agreement between the city and the board entered into under Section 27 of this article.

(17-c) "Projected pensionable payroll" means the estimated pensionable payroll for the fiscal year beginning 12 months after the date of the risk sharing valuation study prepared under Section 9A of this article, as applicable, at the time of calculation by:

(A) projecting the prior fiscal year's pensionable payroll projected forward two years by using the current payroll growth rate assumptions; 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.

(17-d) "Retired member" means a member who has separated from service and who is eligible to receive an immediate service or disability pension under this article.

(17-e) "Salary" means pay provided for the classified position in the police department held by the employee.

(18) "School" means any public or private school through the 12th grade or any trade school, junior college, college, or

university beyond the 12th grade that is accredited by a generally recognized accrediting authority.

(19) Repealed by Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.32, eff. July 1, 2017.

(20) "Separation from service" means cessation of work for the police department of a city subject to this article, whether caused by death, discharge, resignation, or transfer to an unclassified position.

(21) "Service" means the period of time a person is employed in the police department of a city subject to this article, except for any period of DROP participation, and includes any period that the person is receiving a disability pension under Section 15 of this article or is on a military leave of absence described by Section 23 of this article, but only if the person returns to active service after the period of disability or military leave. The term does not include periods in which a person is suspended from duty without pay, on leave of absence without pay, or separated from service.

(22) "Surviving spouse" means a person who was married to an active, inactive, or retired member at the time of the member's death and, in the case of a marriage or remarriage after the member's retirement, for a period of at least five consecutive years.

(22-a) "Survivor" means a surviving spouse, a dependent child, or a dependent parent.

(23) Repealed by Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.32, eff. July 1, 2017.

(24) "Third quarter line rate" means the corridor midpoint plus 2.5 percentage points.

(25) "Trustee" means a member of the board.

(26) "Ultimate entry age normal" means an actuarial cost method under which a calculation is made to determine the average uniform and constant percentage rate of contributions that, if applied to the compensation of each member during the entire period of the member's anticipated covered service, would be required to meet the cost of all benefits payable on the member's behalf based on the benefits provisions for newly hired employees. For purposes of this definition, the actuarial accrued liability for each member is the difference between the member's present value of future benefits based on the tier of benefits that apply to the member and the member's present value of future normal costs determined using the

normal cost rate.

(27) "Unfunded actuarial accrued liability" means the difference between the actuarial accrued liability and the actuarial value of assets. For purposes of this definition:

(A) "actuarial accrued liability" means the portion of the actuarial present value of projected benefits attributed to past periods of member service based on the cost method used in the risk sharing valuation study prepared under Section 9A or 9B of this article, as applicable; and

(B) "actuarial value of assets" means the value of pension system investments as calculated using the asset smoothing method used in the risk sharing valuation study prepared under Section 9A or 9B of this article, as applicable.

(28) "Unanticipated change" means, with respect to the unfunded actuarial accrued liability in each subsequent risk sharing valuation study prepared under Section 9A of this article, 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.

(29) "Year 2017 effective date" means the date on which S.B. No. 2190, Acts of the 85th Legislature, Regular Session, 2017, took effect.

Sec. 2A. FISCAL YEAR. If either the pension system or the city changes its respective fiscal year, the pension system and the city shall enter into a written agreement under Section 27 of this article to adjust the provisions of Sections 9 through 9E of this article to reflect that change for purposes of this article.

Sec. 2B. ALTERNATIVE RETIREMENT PLANS. (a) In this section, "salary-based benefit plan" means a retirement plan provided by the pension system under this article that provides member benefits calculated in accordance with a formula that is based on multiple factors, one of which is the member's salary at the time of the member's retirement.

(b) Notwithstanding any other law, including Section 9F of this article, and except as provided by Subsection (c) 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 a cash balance retirement plan or plans, if both parties consider it appropriate.

(c) Notwithstanding any other law, including Section 9F of this article, and except as provided by Subsection (d) of this section, if, beginning with the final risk sharing valuation study prepared under Section 9A of this article on or after July 1, 2021, either the funded ratio of the pension system is less than 65 percent as determined in the final risk sharing valuation study without making any adjustments under Section 9D or 9E of this article, or 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 a cash balance retirement plan that complies with Section 2C of this article; and

(2) require each employee first hired by the city on or after the 90th day 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 salary-based benefit plan, provided the employee would have otherwise been eligible to participate in the salary-based benefit plan.

(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, the board and 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 plan participant" means an employee who participates in a cash balance retirement plan.

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

(3) "Interest" means the interest credited to a cash balance plan participant's notional account, which may not:

(A) exceed a percentage rate equal to the cash balance retirement plan's most recent five fiscal years' smoothed rate of return; or

(B) be less than zero percent.

(4) "Salary-based benefit plan" has the meaning assigned by Section 2B of this article.

(b) The written agreement 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 20 years from the date an actuarial gain or loss is realized;

(3) provide for the crediting of city and cash balance plan participant contributions to each cash balance plan participant's notional account;

(4) provide for the crediting of interest to each cash balance plan participant's notional account;

(5) include a vesting schedule;

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

(7) provide for death and disability benefits;

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

(A) receive a monthly annuity payable for the life of the cash balance plan participant in an amount actuarially determined on the date of the cash balance plan participant's retirement based on the cash balance plan participant's accumulated notional account balance annuitized in accordance with the actuarial assumptions and actuarial methods established in the most recent actuarial experience study conducted under Section 9C of this article, except that the assumed rate of return applied may not exceed the pension system's assumed rate of return in the most recent risk sharing valuation study; or

(B) receive a single, partial lump-sum payment from the cash balance plan 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 cash balance plan participant's notional account balance after receiving the partial lump-sum payment; and

(9) include any other provision determined necessary by:

(A) the board and the city; or

(B) the pension system for purposes of maintaining the

tax-qualified status of the pension system under Section 401 of the code.

(c) 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) subject to Subsection (d) of this section, is not eligible to be an active member of and may not participate in the salary-based benefit plan; and

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

(d) A cash balance plan participant is considered an active member for purposes of Sections 9 through 9G of this article.

(e) At the time of implementation of the cash balance retirement plan, the employer normal cost rate of the cash balance retirement plan may not exceed the employer normal cost rate of the salary-based benefit plan.

Sec. 2D. CONFLICT OF LAW. To the extent of a conflict between this article and any other law, this article prevails.

Sec. 3. PENSION BOARD. (a) The board of trustees of the pension system that was created under Chapter 76, Acts of the 50th Legislature, Regular Session, 1947 (Article 6243g-1, Vernon's Texas Civil Statutes), and that operates under Section 67, Article XVI, Texas Constitution, continues to be responsible for the general administration, management, and operation of the pension system, including the direction of investment and oversight of the fund's assets.

(b) The board is composed of seven members as follows:

(1) the administrative head of the city or the administrative head's authorized representative;

(2) three employees of the police department having membership in the pension system, elected by the active, inactive, and retired members of the pension system;

(3) two retired members who are receiving pensions from the system, who are elected by the active, inactive, and retired members of the pension system, and who are not:

(A) officers or employees of the city; or

(B) current or former employees of any other fund or pension system authorized under:

(i) Article 6243e.2(1), Revised Statutes; or

(ii) Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes); and

(4) the director of finance of the city or the person discharging the duties of the director of finance, or the director's designee.

(c) The terms of office of the board members elected as described by Subsection (b)(2) of this section shall be three years, beginning on January 1 and ending on December 31, with one board member being elected every year at an election called by the board and held in December. If a vacancy occurs among the three elected active board members, the board shall hold an election within 60 days after the date the vacancy occurred. At that election, an active member shall be elected to serve for the remainder of the term of the vacant position or for a full term if the term of the board member that caused the vacancy would have ended in that year.

(d) The terms of office of the board members elected as described by Subsection (b)(3) of this section shall be three years, beginning on January 1 and ending on December 31. Beginning in 1999, and each third succeeding year, one board member shall be elected at an election called by the board and held in December. Beginning in 2000, and each third succeeding year, a second board member shall be elected at an election called by the board and held in December. If a vacancy occurs among the two elected retired members of the board, the board shall hold an election within 60 days after the date the vacancy occurred. At that election, a retired member shall be elected to serve for the remainder of the term of the vacant position or for a full term if the term of the board member that caused the vacancy would have ended in that year. A board member who is a retired member and who was appointed to the board before January 1999 shall serve the remainder of the board member's term. On expiration of the appointed term, the appointed board member is eligible to run for the board position described by Subsection (b)(3) of this section in the same manner as any other retired member.

(e) A board member vacates the member's seat on the board if the member is removed under Section 7 of this article or ceases to meet the qualifications for the seat.

(f) An individual who is an officer or employee of any employee organization or retiree organization or an employee of the pension system is prohibited from being elected to the board, appointed to

the board, or in any other way serving as a member of the board.

(g) Each board member shall, within 30 days after taking office, take an oath of office:

(1) to diligently and honestly administer the affairs of the pension system by:

(A) being loyal exclusively to all members;

(B) being prudent in protecting and managing the trust's property;

(C) defending the trust's assets; and

(D) acting under the terms of the plan; and

(2) to not knowingly violate, or willingly permit to be violated, this article.

(h) Notwithstanding any other provision in this section, if a candidate for an elected trustee position is unopposed in an election, the election may not be held for that position. The board shall certify the candidate as elected to the board on the executive director's certification that the candidate is eligible to be a trustee under this section and is unopposed for election. The certified candidate shall take the oath of office as soon as practicable in January, after being declared elected in December.

(i) If a candidate for either an active or retired board member position does not receive a majority vote for that position, a runoff election for that position shall be held. The board shall establish a policy for general and runoff elections for purposes of this subsection.

(j) Beginning with the year 2017 effective date:

(1) the term of office for a board member in the phase-down program A or B shall be one year; and

(2) a board member who subsequently enters phase-down program A or B and has served at least one year of the member's current term shall vacate the member's seat and may run for reelection.

Sec. 4. BOARD MEMBER LEAVE AND COMPENSATION. (a) The city shall allow active members who are trustees to promptly attend all board and committee meetings. The city shall allow trustees the time required to travel to and attend educational workshops and legislative hearings and to attend to other pension system business, including meetings regarding proposed amendments to this article, if attendance is consistent with a trustee's duty to the board.

(b) The board, by an affirmative vote of at least four board

members, may elect to reimburse board members who are not employees of the city for their time while attending to official business of the pension system. The amount of any reimbursement may not exceed $750 a month for each affected board member.

Sec. 5. OFFICERS; MEETINGS; EMPLOYEES. (a) The board annually shall elect from its active and retired membership a chairman. The board also annually shall elect from its membership a vice chairman and a secretary.

(b) The board may hire one or more employees whose positions and salaries shall be set by the board and who, acting under the direction of the board, shall keep all of the records of and perform all of the clerical services for the pension system.

(b-1) The board may hire an executive director. The executive director, acting under the direction of the board, shall handle the operations of the plan and shall perform other duties as the board may assign. The executive director shall also serve as the plan administrator for purposes of complying with Subchapter A, Chapter 804, Government Code.

(c) The board may employ professional investment managers and advisors to manage, or advise the board regarding the management and investment of, the fund. These professional services may include investment counseling, evaluation of fund performance, investment research, and other comparable services.

(d) The board may employ one or more actuaries, legal counsel, accountants, or other professionals and pay the compensation for these services from the fund.

(e) The board shall hold regular monthly meetings at the time and place it designates by resolution. The chairman, secretary, or any four board members may call a special meeting of the board.

(f) Each board member is entitled to one vote.

(g) Notice shall be given to all board members, unless waived in writing, of any proposed meeting, by any method reasonably calculated to provide adequate notice of the meeting. The notice may be delivered by mail, in-hand personal delivery, or facsimile or other electronically transmitted notice with recordation of receipt by the receiving board member. If all board members attend a meeting, however, failure to give notice as required by this subsection is excused.

(h) The board shall keep accurate minutes of its meetings and records of its proceedings.

Sec. 5A. QUALIFICATIONS OF CITY ACTUARY. (a) An actuary hired by the city for purposes of this article must be an actuary from a professional service firm who:

(1) is not already engaged by the pension system or any other fund or pension system authorized under Article 6243e.2(1), Revised Statutes, or Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), to provide actuarial services to the pension system or other fund or pension system, as applicable;

(2) has a minimum of 10 years of professional actuarial experience; and

(3) is a member of the American Academy of Actuaries or a fellow of the Society of Actuaries and meets the applicable requirements to issue statements of actuarial opinion.

(b) Notwithstanding Subsection (a) of this section, the city actuary must at least meet the qualifications required by the board for the pension system actuary. The city actuary is not required to have greater qualifications than those of the pension system actuary.

Sec. 5B. LIABILITY OF CERTAIN PERSONS. (a) The trustees, executive director, and employees of the pension system are fully protected from and free of liability for any action taken or suffered by them that were performed in good faith and in reliance on an actuary, accountant, counsel, or other professional service provider, or in reliance on records provided by the city.

(b) The officers and employees of the city are fully protected and free of liability for any action taken or suffered by the officer or employee, as applicable, in good faith and on reliance on an actuary, accountant, counsel, or other professional service provider.

(c) The protection from liability provided by this section is cumulative of and in addition to any other constitutional, statutory, or common law official or governmental immunity, defense, and civil or procedural protection provided to the city or pension system as a governmental entity and to a city or pension system official or employee as an official or employee of a governmental entity. Except for a waiver expressly provided by this article, this article does not grant an implied waiver of any immunity.

Sec. 6. GENERAL POWERS AND DUTIES. (a) The board shall retain control over all money collected or to be collected for the pension system, shall keep separate from all other funds all money for the use and benefit of the system, and shall keep a record of all

claims, receipts, and disbursements in one or more books maintained for that purpose.

(b) The board shall establish the policies and procedures for disbursements from the fund that it considers appropriate.

(c) The board may reimburse a board member or an officer or employee of the board for liability imposed as damages because of an alleged act, error, or omission committed in the individual's capacity as a fiduciary or co-fiduciary of assets of the fund or as an officer or employee of the board and for costs and expenses incurred by a fiduciary or co-fiduciary officer or employee in defense of a claim of an alleged act, error, or omission, or may purchase from an insurer licensed to do business in this state one or more policies of insurance that provide for the reimbursement. However, no reimbursement may be provided and no policy of insurance may be purchased under this subsection that would provide for reimbursement of a board member or an officer or employee of the board for liability imposed or expenses incurred because of the individual's personal dishonesty, fraudulent breach of trust, lack of good faith, intentional fraud or deception, or intentional failure to act prudently. The cost of reimbursement or insurance coverage purchased under this subsection shall be paid from money in the fund.

(d) The board shall administer the pension system consistent with the applicable provisions of the code.

(e) The board is vested with the power to adopt for the administration of the pension system written rules and guidelines consistent with this article, including rules or guidelines to ensure that the pension system and the fund meet the qualification requirements of the code and regulations and rulings issued under the code and that are applicable to governmental plans.

(e-1) The board may sue on behalf of the pension system in any court with proper subject matter jurisdiction regardless of location. The board has sole authority to litigate matters on behalf of the pension system.

(f) The board has full discretion and authority to:

(1) administer the pension system;

(2) construe and interpret this article and any summary plan descriptions or benefits procedures;

(3) subject to Section 9F of this article, correct any defect, supply any omission, and reconcile any inconsistency that appears in this article; and

(4) take all other acts necessary to carry out the purpose of this article in a manner and to the extent that the board considers expedient to administer this article for the greatest benefit of all members.

(f-1) Except as provided by Section 9F of this article, all decisions of the board under Subsection (f) of this section are final and binding on all affected parties.

(g) The board, if reasonably necessary in the course of performing a board function, may issue process or subpoena a witness or the production of a book, record, or other document as to any matter affecting retirement, disability, or death benefits under any pension plan provided by the pension system. The presiding officer of the board may issue, in the name of the board, a subpoena only if a majority of the board approves. The presiding officer of the board, or the presiding officer's designee, shall administer an oath to each witness. A peace officer shall serve a subpoena issued by the board. If the person to whom a subpoena is directed fails to comply, the board may bring suit to enforce the subpoena in a district court of the county in which the person resides or in the county in which the book, record, or other document is located. If the district court finds that good cause exists for issuance of the subpoena, the court shall order compliance. The district court may modify the requirements of a subpoena that the court finds are unreasonable. Failure to obey the order of the district court is punishable as contempt.

(h) The board is not subject to Title 6, Property Code.

(i) If the board or its designee determines that any person to whom a payment under this article is due is a minor or is unable to care for the person's affairs because of a physical or mental disability, and if the board or its designee, as applicable, determines the person does not have a guardian or other legal representative and that the estate of the person is insufficient to justify the expense of establishing a guardianship, or continuing a guardianship after letters of guardianship have expired, then until current letters of guardianship are filed with the pension system, the board or its designee, as applicable, may make the payment:

(1) to the spouse of the person, as trustee for the person;

(2) to an individual or entity actually providing for the needs of and caring for the person, as trustee for the person; or

(3) to a public agency or private charitable organization

providing assistance or services to the aged or incapacitated that agrees to accept and manage the payment for the benefit of the person as a trustee.

(j) The board or its designee is not responsible for overseeing how a person to whom payment is made under Subsection (i) of this section uses or otherwise applies the payments. Payments made under Subsection (i) of this section constitute a complete discharge of the pension system's liability and obligation to the person on behalf of whom payment is made.

Sec. 7. REMOVAL OF BOARD MEMBER. (a) An elected board member may be removed from the board either by a vote of the membership of the pension system at a removal election initiated and held as provided by this section or by a vote of five board members together with a decision to remove the board member made by a hearing examiner as provided by this section.

(b) An appointed member of the board may be removed from the board by the administrative head of the city.

(c) To initiate an election for removal of an elected board member, a petition for removal signed by at least one-third of the members and retired members of the pension system must be filed with the board not later than the 45th day after the date the first signature on the petition is obtained. Each signature must be legible and accompanied by the signer's printed name and employee payroll number, if any. A member's payroll number may not be publicly disclosed. A removal election must be held not later than the 30th day after the date the board certifies that a petition for removal satisfies the requirements for a petition under this subsection. The results of a removal election are binding only if a majority of the active and retired members participate in the election. A board member's service on the board ends on the declaration by the board that a majority of those voting in the removal election voted in favor of removal.

(d) On the date the board makes a declaration under Subsection (c) of this section, the board shall call a special election to be held not earlier than the 20th or later than the 60th day after that date to fill the vacancy for the unexpired term of the person who was removed. The person who was removed is not eligible to run in the special election but is eligible to run in all subsequent board elections.

(e) Except as otherwise provided by Subsections (a) and (b) of

this section, a board member may be removed only as provided by this subsection and Subsections (f) and (g) of this section. After an affirmative vote of the board to remove a board member under Subsection (a) of this section, the board or its designee and the board member whose removal is proposed shall attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner not later than the 10th day after the date the board votes to remove the board member, on the next workday the parties involved shall request a list of seven qualified neutral arbitrators from the American Arbitration Association of the Federal Mediation and Conciliation Service or another arbitration organization with similarly stringent standards. The board member whose removal is proposed and the board or their designees may agree on one of the seven neutral arbitrators on the list. If the parties fail to agree before the 26th day after the date the board first votes to remove the board member, each party or the party's designee shall alternate striking a name from the list, and the name remaining is the hearing examiner. The board member whose removal is proposed or the board member's designee is entitled to strike the first name. If the 25th day falls on a Saturday, Sunday, or legal holiday, the parties must strike names from the list on the next workday. The parties or their designees must agree on a date for the hearing that is within the period prescribed by Subsection (f) of this section.

(f) The hearing must begin as soon as the hearing examiner can be scheduled but not later than the 60th day after the date the board votes to remove the board member. In a hearing conducted under this subsection, the hearing examiner may issue subpoenas. The parties may agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure, the hearing examiner must issue a decision not later than the 10th day after the date the hearing ends. Unless operating under an expedited hearing procedure, the hearing examiner shall make a reasonable effort to issue a decision not later than the 30th day after the date the hearing ends. The hearing examiner's inability to meet the time requirements imposed by this subsection does not affect the hearing examiner's jurisdiction or final decision. The final decision of the hearing examiner may be either to remove the board member or not to remove the board member from the board. The hearing examiner's fees and expenses shall be paid by the pension system. The costs of a witness

shall be paid by the party who calls the witness.

(g) If the hearing examiner's decision is to remove a board member, the person removed is entitled to an opportunity to have the hearing examiner's decision reviewed. To have the decision reviewed, not later than the 30th day after the date of a decision under Subsection (f) of this section, the person removed must obtain signatures of at least one-third of the active and retired members of the pension system requesting an election to overrule the removal decision under Subsection (f). If the 30th day is a Saturday, Sunday, or legal holiday, the following workday is considered the 30th day. Each signature must indicate the signing date beside the signature, be legible, and be accompanied by the signer's printed name and employee payroll number, if any. A member's payroll number may not be publicly disclosed. The board shall verify the list not later than the 10th day after the date the board receives it. Not later than the 30th day after the date the board has verified the signatures, the board shall hold an election among the active and retired members. If a majority of the votes cast at an election in which a majority of the active and retired members of the pension system participate favor overruling the hearing examiner's decision, the board member shall be reinstated. If a majority do not vote to overrule the decision to remove a board member, a replacement election must be held not later than the 30th day after the date of the preceding election.

(h) During the period beginning on the date of the board vote to remove a board member and ending on the date the board member is reinstated under this section, the person's privileges as a board member, including voting privileges, are suspended.

Sec. 8. CONTRIBUTIONS BY MEMBERS. (a) Subject to adjustments authorized by Section 9D or 9E of this article, each active member of the pension system shall pay into the system each month 10.5 percent of the member's pay. The payments shall be deducted by the city from the salary of each active member each payroll period and paid to the pension system. Except for the repayment of withdrawn contributions under Section 17(f) of this article and rollovers permitted by Section 17(h) of this article, a person may not be required or permitted to make any payments into the pension system after the person separates from service.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.32, eff. July 1, 2017.

Sec. 9. CONTRIBUTIONS BY THE CITY. (a) Beginning with the year 2017 effective date, the city shall make contributions to the pension system for deposit into the fund as provided by this section and Section 9A, 9B, 9D, or 9E of this article, as applicable. The city shall contribute:

(1) beginning with the year 2017 effective date and ending with the fiscal year ending June 30, 2018, an amount equal to the city contribution rate, as determined in the initial risk sharing valuation study conducted under Section 9B of this article and adjusted under Section 9D or 9E of this article, as applicable, multiplied by the pensionable payroll for the fiscal year; and

(2) for each fiscal year after the fiscal year ending June 30, 2018, an amount equal to the city contribution rate, as determined in a subsequent risk sharing valuation study conducted under Section 9A of this article and adjusted under Section 9D or 9E of this article, as applicable, multiplied by the pensionable payroll for the applicable fiscal year.

(b) Except by written agreement between the city and the board under Section 27 of this article providing for an earlier contribution date, at least biweekly, the city shall make the contributions required by Subsection (a) of this section by depositing with the pension system an amount equal to the city contribution rate multiplied by the pensionable payroll for the biweekly period.

(c) With respect to each fiscal year:

(1) the first contribution by the city under this section for the fiscal year shall be made not later than the date payment is made to employees for their first full biweekly pay period beginning on or after the first day of the fiscal year; and

(2) the final contribution by the city under this section for the fiscal year shall be made not later than the date payment is made to employees for the final biweekly pay period of the fiscal year.

(d) In addition to the amounts required under this section, the city may at any time contribute additional amounts to the pension system for deposit in the pension fund by entering into a written agreement with the board in accordance with Section 27 of this article.

(e) The governing body of a city to which this article applies by ordinance or resolution may provide that the city pick up active

member contributions required by Section 8 of this article so that the contributions of all active members of the pension system qualify as picked-up contributions under Section 414(h)(2) of the code. If the governing body of a city adopts an ordinance or resolution under this section, the city, the board, and any other necessary party shall implement the action as soon as practicable. Contributions picked up as provided by this subsection shall be included in the determination of an active member's pay, deposited to the individual account of the active member on whose behalf they are made, and treated for all purposes, other than federal tax purposes, in the same manner and with like effect as if they had been deducted from the salary of, and made by, the active member.

(f) Only amounts paid by the city to the pension system shall be credited against any amortization schedule of payments due to the pension system under this article.

(g) Subsection (f) of this section does not affect changes to an amortization schedule of a liability layer under Section 9A(a)(6)(F), 9B(i), or 9D(c)(4) of this article.

(h) Notwithstanding any other law and except for the pension obligation bond assumed under Section 9B(d)(2) of this article, the city may not issue a pension obligation bond to fund the city contribution rate under this section.

Sec. 9A. RISK SHARING VALUATION STUDIES. (a) The pension system and the city shall separately cause their respective actuaries to prepare a risk sharing valuation study in accordance with this section and actuarial standards of practice. A risk sharing valuation study must:

(1) be dated as of the first day of the fiscal year in which the study is required to be prepared;

(2) be included in the pension system's standard valuation study prepared annually for the pension system;

(3) calculate the unfunded actuarial accrued liability of the pension system;

(4) be based on actuarial data provided by the pension system actuary or, if actuarial data is not provided, on estimates of actuarial data;

(5) estimate the city contribution rate, taking into account any adjustments required under Section 9D or 9E of this article for all applicable prior fiscal years;

(6) subject to Subsection (g) of this section, be based on

the following assumptions and methods that are consistent with actuarial standards of practice:

(A) an ultimate entry age normal actuarial method;

(B) for purposes of determining the actuarial value of assets:

(i) except as provided by Subparagraph (ii) of this paragraph and Section 9D(c)(1) or 9E(c)(2) of this article, an asset smoothing method recognizing actuarial losses and gains over a five-year period applied prospectively beginning on the year 2017 effective date; and

(ii) for the initial risk sharing valuation study prepared under Section 9B of this article, a marked-to-market method applied as of June 30, 2016;

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

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

(E) each liability loss layer amortized over a period of 30 years from the first day of the fiscal 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 from July 1, 2016, for a 30-year period beginning July 1, 2017;

(F) the amortization period for each liability gain layer being:

(i) 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 fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability gain layer is first recognized;

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

(H) the assumed rate of return, subject to adjustment under Section 9D(c)(2) of this article or, if Section 9B(g) of this

article applies, adjustment in accordance with a written agreement entered into under Section 27 of this article, except the assumed rate of return may not exceed seven percent per annum;

(I) the price inflation assumption as of the most recent actuarial experience study, which may be reset by the board by plus or minus 50 basis points based on that actuarial experience study;

(J) projected salary increases and payroll growth rate set in consultation with the city's finance director; and

(K) payroll for purposes of determining the corridor midpoint and city contribution rate must be projected using the annual payroll growth rate assumption, which for purposes of preparing any amortization schedule may not exceed three percent; and

(7) be revised and restated, if appropriate, not later than:

(A) the date required by a written agreement entered into between the city and the board; or

(B) the 30th day after the date required action is taken by the board under Section 9D or 9E of this article to reflect any changes required by either section.

(b) As soon as practicable after the end of a fiscal year, the pension system actuary at the direction of the pension system and the city actuary at the direction of the city shall separately prepare a proposed risk sharing valuation study based on the fiscal year that just ended.

(c) Not later than September 30 following the end of the fiscal year, the pension system shall provide to the city actuary, under a confidentiality agreement with the board in which the city actuary agrees to comply with the confidentiality provisions of Section 29 of this article, the actuarial data described by Subsection (a)(4) of this section.

(d) Not later than the 150th day after the last day of the fiscal year:

(1) the pension system actuary, at the direction of the pension system, shall provide the proposed risk sharing valuation study prepared by the pension system actuary under Subsection (b) of this section to the city actuary; and

(2) the city actuary, at the direction of the city, shall provide the proposed risk sharing valuation study prepared by the city actuary under Subsection (b) of this section to the pension

system actuary.

(e) Each actuary described by Subsection (d) of this section may provide copies of the proposed risk sharing valuation studies to the city or to the pension system, as appropriate.

(f) If, after exchanging proposed risk sharing valuation studies under Subsection (d) of this section, it is found that the difference between the estimated city contribution rate recommended in the proposed risk sharing valuation study prepared by the pension system actuary and the estimated city contribution rate recommended in the proposed risk sharing valuation study prepared by the city actuary for the corresponding fiscal year is:

(1) less than or equal to two percentage points, the estimated city contribution rate recommended by the pension system actuary will be the estimated city contribution rate for purposes of Subsection (a)(5) of this section, and the proposed risk sharing valuation study prepared for the pension system is considered to be the final risk sharing valuation study for the fiscal year for the purposes of this article; or

(2) greater than two percentage points, the city actuary and the pension system actuary shall have 20 business days to reconcile the difference, provided that without the mutual agreement of both actuaries, the difference in the estimated city contribution rate recommended by the city actuary and the estimated city contribution rate recommended by the pension system actuary may not be further increased and:

(A) if, as a result of reconciliation efforts under this subdivision, the difference is reduced to less than or equal to two percentage points:

(i) the estimated city contribution rate proposed under the reconciliation by the pension system actuary will be the estimated city contribution rate for purposes of Subsection (a)(5) of this section; and

(ii) the pension system's risk sharing valuation study is considered to be the final risk sharing valuation study for the fiscal year for the purposes of this article; or

(B) if, after 20 business days, the pension system actuary and the city actuary are not able to reach a reconciliation that reduces the difference to an amount less than or equal to two percentage points:

(i) the city actuary at the direction of the city

and the pension system actuary at the direction of the pension system each shall deliver to the finance director of the city and the executive director of the pension system a final risk sharing valuation study with any agreed-to changes, marked as the final risk sharing valuation study for each actuary; and

(ii) not later than the 90th day before the first day of the next fiscal year, the finance director and the executive director shall execute a joint addendum to the final risk sharing valuation study received by them under Subparagraph (i) of this paragraph that is a part of the final risk sharing valuation study for the fiscal year for all purposes and reflects the arithmetic average of the estimated city contribution rates for the fiscal year stated by the city actuary and the pension system actuary in the final risk sharing valuation study for purposes of Subsection (a)(5) of this section, and for reporting purposes the pension system may treat the pension system actuary's risk sharing valuation study with the addendum as the final risk sharing valuation study.

(g) The assumptions and methods used and the types of actuarial data and financial information used to prepare the initial risk sharing valuation study under Section 9B of this article shall be used to prepare each subsequent risk sharing valuation study under this section, unless changed based on the actuarial experience study conducted under Section 9C of this article.

(h) The actuarial data provided under Subsection (a)(4) of this section may not include the identifying information of individual members.

Sec. 9B. INITIAL RISK SHARING VALUATION STUDIES; CORRIDOR MIDPOINT. (a) The pension system and the city shall separately cause their respective actuaries to prepare an initial risk sharing valuation study that is dated as of July 1, 2016, in accordance with this section. An initial risk sharing valuation study must:

(1) except as otherwise provided by this section, be prepared in accordance with Section 9A of this article and, for purposes of Section 9A(a)(4) of this article, be based on actuarial data as of June 30, 2016, or, if actuarial data is not provided, on estimates of actuarial data; and

(2) project the corridor midpoint for 31 fiscal years beginning with the fiscal year beginning July 1, 2017.

(b) If the initial risk sharing valuation study has not been prepared consistent with this section before the year 2017 effective

date, as soon as practicable after the year 2017 effective date:

(1) the pension system shall provide to the city actuary, under a confidentiality agreement, the necessary actuarial data used by the pension system actuary to prepare the proposed initial risk sharing valuation study; and

(2) not later than the 30th day after the date the city's actuary receives the actuarial data:

(A) the city actuary, at the direction of the city, shall provide a proposed initial risk sharing valuation study to the pension system actuary; and

(B) the pension system actuary, at the direction of the pension system, shall provide a proposed initial risk sharing valuation study to the city actuary.

(c) If, after exchanging proposed initial risk sharing valuation studies under Subsection (b)(2) of this section, it is determined that the difference between the estimated city contribution rate for any fiscal year recommended in the proposed initial risk sharing valuation study prepared by the pension system actuary and in the proposed initial risk sharing valuation study prepared by the city actuary is:

(1) less than or equal to two percentage points, the estimated city contribution rate for that fiscal year recommended by the pension system actuary will be the estimated city contribution rate for purposes of Section 9A(a)(5) of this article; or

(2) greater than two percentage points, the city actuary and the pension system actuary shall have 20 business days to reconcile the difference and:

(A) if, as a result of reconciliation efforts under this subdivision, the difference in any fiscal year is reduced to less than or equal to two percentage points, the estimated city contribution rate recommended by the pension system actuary for that fiscal year will be the estimated city contribution rate for purposes of Section 9A(a)(5) of this article; or

(B) if, after 20 business days, the city actuary and the pension system actuary are not able to reach a reconciliation that reduces the difference to an amount less than or equal to two percentage points for any fiscal year:

(i) the city actuary at the direction of the city and the pension system actuary at the direction of the pension system each shall deliver to the finance director of the city and the

executive director of the pension system a final initial risk sharing valuation study with any agreed-to changes, marked as the final initial risk sharing valuation study for each actuary; and

(ii) the finance director and the executive director shall execute a joint addendum to the final initial risk sharing valuation study that is a part of each final initial risk sharing valuation study for all purposes and that reflects the arithmetic average of the estimated city contribution rate for each fiscal year in which the difference was greater than two percentage points for purposes of Section 9A(a)(5) of this article, and for reporting purposes the pension system may treat the pension system actuary's initial risk sharing valuation study with the addendum as the final initial risk sharing valuation study.

(d) In preparing the initial risk sharing valuation study, the city actuary and pension system actuary shall:

(1) adjust the actuarial value of assets to be equal to the market value of assets as of July 1, 2016;

(2) assume the issuance of planned pension obligation bonds by December 31, 2017, in accordance with Subsection (j)(2) of this section; and

(3) assume benefit and contribution changes contemplated by this article as of the year 2017 effective date.

(e) If the city actuary does not prepare an initial risk sharing valuation study for purposes of this section, the pension system actuary's initial risk sharing valuation study will be used as the final risk sharing valuation study for purposes of this article unless the city did not prepare a proposed initial risk sharing valuation study because the pension system actuary did not provide the necessary actuarial data in a timely manner. If the city did not prepare a proposed initial risk sharing valuation study because the pension system actuary did not provide the necessary actuarial data in a timely manner, the city actuary shall have 60 days to prepare the proposed initial risk sharing valuation study on receipt of the necessary information.

(f) If the pension system actuary does not prepare a proposed initial risk sharing valuation study for purposes of this section, the proposed initial risk sharing valuation study prepared by the city actuary will be the final risk sharing valuation study for purposes of this article.

(g) The city and the board may agree on a written transition

plan for resetting the corridor midpoint:

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

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

(h) If the city and the board have not entered into an agreement described by Subsection (g) of this section in a given fiscal year, the corridor midpoint will be the corridor midpoint determined for the 31st fiscal year in the initial risk sharing valuation study prepared in accordance with this section.

(i) If the city makes a contribution to the pension system of at least $5 million more than the amount that would be required by Section 9(a) of this article, a liability gain layer with the same remaining amortization period as the legacy liability is created and the corridor midpoint shall be decreased by the amortized amount in each fiscal year covered by the liability gain layer produced divided by the projected pensionable payroll.

(j) Notwithstanding any other provision of this article, including Section 9F of this article:

(1) if the city fails to deliver the proceeds of pension obligation bonds totaling $750 million on or before March 31, 2018, the board shall:

(A) except as provided by Paragraph (B) of this subdivision, immediately rescind, prospectively, any or all benefit changes made effective under S.B. No. 2190, Acts of the 85th Legislature, Regular Session, 2017, as of the year 2017 effective date; or

(B) reestablish the deadline for the delivery of pension obligation bond proceeds, which may not be later than May 31, 2018, reserving the right to rescind the benefit changes authorized by this subdivision if the bond proceeds are not delivered by the reestablished deadline; and

(2) subject to Subsection (k) of this section, if the board rescinds benefit changes under Subdivision (1) of this subsection or pension obligation bond proceeds are not delivered on or before December 31, 2017, the initial risk sharing valuation study shall be prepared again and restated without assuming the delivery of the pension obligation bond proceeds, the later delivery of pension obligation bond proceeds, or the rescinded benefit changes, as applicable, and the resulting city contribution rate will become

effective in the fiscal year following the completion of the restated initial risk sharing valuation study.

(k) The restated initial risk sharing valuation study required under Subsection (j)(2) of this section must be completed at least 30 days before the start of the fiscal year:

(1) ending June 30, 2019, if the board does not reestablish the deadline under Subsection (j)(1) of this section; or

(2) immediately following the reestablished deadline, if the board reestablishes the deadline under Subsection (j)(1) of this section and the city fails to deliver the pension obligation bond proceeds described by Subsection (j)(1) of this section by the reestablished deadline.

Sec. 9C. ACTUARIAL EXPERIENCE STUDIES. (a) At least once every four years, the pension system actuary at the direction of the pension system shall conduct an actuarial experience study in accordance with actuarial standards of practice. The actuarial experience study required by this subsection must be completed not later than September 30 of the year in which the study is required to be conducted.

(b) Except as otherwise expressly provided by Sections 9A(a)(6)(A)-(I) of this article, actuarial assumptions and methods used in the preparation of a risk sharing valuation study, other than the initial risk sharing valuation study, shall be based on the results of the most recent actuarial experience study.

(c) Not later than the 180th day before the date the board may consider adopting any assumptions and methods for purposes of Section 9A of this article, the pension system shall provide the city actuary with a substantially final draft of the pension system's actuarial experience study, including:

(1) all assumptions and methods recommended by the pension system's actuary; and

(2) summaries of the reconciled actuarial data used in creation of the actuarial experience study.

(d) Not later than the 60th day after the date the city receives the final draft of the pension system's actuarial experience study under Subsection (c) of this section, the city actuary and pension system actuary shall confer and cooperate on reconciling and producing a final actuarial experience study. During the period prescribed by this subsection, the pension system actuary may modify the recommended assumptions in the draft actuarial experience study

to reflect any changes to assumptions and methods to which the pension system actuary and the city actuary agree.

(e) At the city actuary's written request, the pension system shall provide additional actuarial data used by the pension system actuary to prepare the draft actuarial experience study, provided that confidential data may only be provided subject to a confidentiality agreement in which the city actuary agrees to comply with the confidentiality provisions of Section 29 of this article.

(f) The city actuary at the direction of the city shall provide in writing to the pension system actuary and the pension system:

(1) any assumptions and methods recommended by the city actuary that differ from the assumptions and methods recommended by the pension system actuary; and

(2) the city actuary's rationale for each method or assumption the actuary recommends and determines to be consistent with standards adopted by the Actuarial Standards Board.

(g) Not later than the 30th day after the date the pension system actuary receives the city actuary's written recommended assumptions and methods and rationale under Subsection (f) of this section, the pension system shall provide a written response to the city identifying any assumption or method recommended by the city actuary that the pension system does not accept. If any assumption or method is not accepted, the pension system shall recommend to the city the names of three independent actuaries for purposes of this section.

(h) An actuary may only be recommended, selected, or engaged by the pension system as an independent actuary under this section if the person:

(1) is not already engaged by the city, the pension system, or any other fund or pension system authorized under Article 6243e.2(1), Revised Statutes, or Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), to provide actuarial services to the city, the pension system, or another fund or pension system referenced in this subdivision;

(2) is a member of the American Academy of Actuaries; and

(3) has at least five years of experience as an actuary working with one or more public retirement systems with assets in excess of $1 billion.

(i) Not later than the 20th day after the date the city

receives the list of three independent actuaries under Subsection (g) of this section, the city shall identify and the pension system shall hire one of the listed independent actuaries on terms acceptable to the city and the pension system to perform a scope of work acceptable to the city and the pension system. The city and the pension system each shall pay 50 percent of the cost of the independent actuary engaged under this subsection. The city shall be provided the opportunity to participate in any communications between the independent actuary and the pension system concerning the engagement, engagement terms, or performance of the terms of the engagement.

(j) The independent actuary engaged under Subsection (i) of this section shall receive on request from the city or the pension system:

(1) the pension system's draft actuarial experience study, including all assumptions and methods recommended by the pension system actuary;

(2) summaries of the reconciled actuarial data used to prepare the draft actuarial experience study;

(3) the city actuary's specific recommended assumptions and methods together with the city actuary's written rationale for each recommendation;

(4) the pension system actuary's written rationale for its recommendations; and

(5) if requested by the independent actuary and subject to a confidentiality agreement in which the independent actuary agrees to comply with the confidentiality provisions of this article, additional confidential actuarial data.

(k) Not later than the 30th day after the date the independent actuary receives all the requested information under Subsection (j) of this section, the independent actuary shall advise the pension system and the city whether it agrees with either the assumption or method recommended by the city actuary or the corresponding method or assumption recommended by the pension system actuary, together with the independent actuary's rationale for making the determination. During the period prescribed by this subsection, the independent actuary may discuss recommendations in simultaneous consultation with the pension system actuary and the city actuary.

(l) The pension system and the city may not seek any information from any prospective independent actuary about possible outcomes of the independent actuary's review.

(m) If an independent actuary has questions or concerns regarding an engagement entered into under this section, the independent actuary shall simultaneously consult with both the city actuary and the pension system actuary regarding the questions or concerns. This subsection does not limit the pension system's authorization to take appropriate steps to complete the engagement of the independent actuary on terms acceptable to both the pension system and the city or to enter into a confidentiality agreement with the independent actuary, if needed.

(n) If the board does not adopt an assumption or method recommended by the city actuary to which the independent actuary agrees, or recommended by the pension system actuary, the city actuary is authorized to use that recommended assumption or method in connection with preparation of a subsequent risk sharing valuation study under Section 9A of this article until the next actuarial experience study is conducted.

Sec. 9D. CITY CONTRIBUTION RATE WHEN ESTIMATED CITY CONTRIBUTION RATE LOWER THAN CORRIDOR MIDPOINT; AUTHORIZATION FOR CERTAIN ADJUSTMENTS. (a) This section governs the determination of the city contribution rate applicable in a fiscal year if the estimated city contribution rate is lower than the corridor midpoint.

(b) If the funded ratio is:

(1) less than 90 percent, the city contribution rate for the fiscal year equals the corridor midpoint; or

(2) equal to or greater than 90 percent and the city contribution rate is:

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

(B) except as provided by Subsection (e) of this section, less than the minimum contribution rate for the corresponding fiscal year, the city contribution rate for the fiscal year equals the minimum contribution rate achieved in accordance with Subsection (c) of this section.

(c) For purposes of Subsection (b)(2)(B) of this section, the following adjustments shall be applied sequentially to the extent required to increase the estimated city contribution rate to equal the minimum contribution rate:

(1) first, adjust the actuarial value of assets equal to the current market value of assets, if making the adjustment causes

the city contribution rate to increase;

(2) second, under a written agreement between the city and the board entered into under Section 27 of this article not later than April 30 before the first day of the next fiscal year, reduce the assumed rate of return;

(3) third, under a written agreement between the city and the board entered into under Section 27 of this article no later than April 30 before the first day of the next fiscal year, prospectively restore all or part of any benefit reductions or reduce increased employee contributions, in each case made after the year 2017 effective date; and

(4) fourth, accelerate the payoff year of the existing liability loss layers, including the legacy liability, by accelerating the oldest liability loss layers first, to an amortization period that is not less than 10 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability loss layer is first recognized.

(d) If the funded ratio is:

(1) equal to or greater than 100 percent:

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

(B) the applicable fiscal year is the payoff year for the legacy liability; and

(C) for each fiscal year subsequent to the fiscal year described by Paragraph (B) of this subdivision, the corridor midpoint shall be determined as provided by Section 9B(g) of this article; and

(2) greater than 100 percent in a written agreement between the city and the pension system under Section 27 of this article, the pension system may reduce member contributions or increase pension benefits if, as a result of the action:

(A) the funded ratio is not less than 100 percent; and

(B) the city contribution rate is not more than the minimum contribution rate.

(e) Except as provided by Subsection (f) of this section, if an agreement under Subsection (d) of this section is not reached on or before April 30 before the first day of the next fiscal year, before the first day of the next fiscal year the board shall reduce member contributions and implement or increase cost of living adjustments, but only to the extent that the city contribution rate is set at or

below the minimum contribution rate and the funded ratio is not less than 100 percent.

(f) If any member contribution reduction or benefit increase under Subsection (e) of this section has occurred within the previous three fiscal years, the board may not make additional adjustments to benefits, and the city contribution rate must be set to equal the minimum contribution rate.

Sec. 9E. CITY CONTRIBUTION RATE WHEN ESTIMATED CITY CONTRIBUTION RATE EQUAL TO OR GREATER THAN CORRIDOR MIDPOINT; AUTHORIZATION FOR CERTAIN ADJUSTMENTS. (a) This section governs the determination of the city contribution rate in a fiscal year when the estimated city contribution rate is equal to or greater than the corridor midpoint.

(b) If the estimated city contribution rate is:

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

(2) except as provided by Subsection (d) or (e) of this section, greater than the maximum contribution rate for the corresponding fiscal year, the city contribution rate equals the corridor midpoint achieved in accordance with Subsection (c) of this section.

(c) For purposes of Subsection (b)(2) of this section, the following adjustments shall be applied sequentially to the extent required to decrease the estimated city contribution rate to equal the corridor midpoint:

(1) first, if the payoff year of the legacy liability was accelerated under Section 9D(c) of this article, extend the payoff year of existing liability loss layers, by extending the most recent loss layers first, to a payoff year not later than 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability loss layer is first recognized; and

(2) second, adjust the actuarial value of assets to the current market value of assets, if making the adjustment causes the city contribution rate to decrease.

(d) If the city contribution rate after adjustment under Subsection (c) of this section is greater than the third quarter line rate:

(1) the city contribution rate equals the third quarter

line rate; and

(2) to the extent necessary to comply with Subdivision (1) of this subsection, the city and the board shall enter into a written agreement under Section 27 of this article to increase member contributions and make other benefits or plan changes not otherwise prohibited by applicable federal law or regulations.

(e) If an agreement under Subsection (d)(2) of this section is not reached on or before April 30 before the first day of the next fiscal year, before the start of the next fiscal year to which the city contribution rate would apply, the board, to the extent necessary to set the city contribution rate equal to the third quarter line rate, shall:

(1) increase member contributions and decrease cost-of-living adjustments;

(2) increase the normal retirement age; or

(3) take any combination of the actions authorized under Subdivisions (1) and (2) of this subsection.

(f) If the city contribution rate remains greater than the corridor midpoint in the third fiscal year after adjustments are made in accordance with an agreement under Subsection (d)(2) of this section, in that fiscal year the city contribution rate equals the corridor midpoint achieved in accordance with Subsection (g) of this section.

(g) The city contribution rate must be set at the corridor midpoint under Subsection (f) of this section by:

(1) in the risk sharing valuation study for the third fiscal year described by Subsection (f) of this section, adjusting the actuarial value of assets to equal the current market value of assets, if making the adjustment causes the city contribution rate to decrease; and

(2) under a written agreement entered into between the city and the board under Section 27 of this article:

(A) increasing member contributions; and

(B) making any other benefits or plan changes not otherwise prohibited by applicable federal law or regulations.

(h) If an agreement under Subsection (g)(2) of this section is not reached on or before April 30 before the first day of the next fiscal year, before the start of the next fiscal year, the board, to the extent necessary to set the city contribution rate equal to the corridor midpoint, shall:

(1) increase member contributions and decrease cost-of-living adjustments;

(2) increase the normal retirement age; or

(3) take any combination of the actions authorized under Subdivisions (1) and (2) of this subsection.

Sec. 9F. UNILATERAL DECISIONS AND ACTIONS PROHIBITED. (a) Notwithstanding Section 6(f) or 5B of this article, the board may not change, terminate, or modify Sections 9 through 9E of this article.

(b) No unilateral decision or action by the board is binding on the city and no unilateral decision or action by the city is binding on the pension system with respect to the application of Sections 9 through 9E of this article unless expressly provided by a provision of those sections. Nothing in this subsection is intended to limit the powers or authority of the board.

Sec. 9G. STATE PENSION REVIEW BOARD; REPORT. (a) After preparing a final risk sharing valuation study under Section 9A or 9B of this article, the pension system and the city shall jointly submit a copy of the study or studies, as appropriate, to the State Pension Review Board for a determination that the pension system and city are in compliance with this article.

(b) Not later than the 30th day after the date an action is taken under Section 9D or 9E of this article, the pension system shall submit a report to the State Pension Review Board regarding any actions taken under those sections.

(c) The State Pension Review Board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the legislative committees having principal jurisdiction over legislation governing public retirement systems if the State Pension Review Board determines the pension system or the city is not in compliance with Sections 9 through 9F of this article.

Sec. 10. INVESTMENT OF SURPLUS. (a) If the board determines that a surplus of funds exists in an amount exceeding the current demands upon the pension system, the board shall invest the surplus funds in the manner provided for by Chapter 802, Government Code.

(b) The board may select an investment manager or investment advisor if the board determines the service is desirable. Selection of managers or advisors must be made from firms that have made presentations in person or in writing to the board.

(c) The board may terminate a contract with an investment advisor at any time. The board may terminate a contract with an

investment manager on notice the board considers appropriate. A contract may not require the pension system to pay a penalty for early termination. The costs of investment management or advisory services shall be paid from the fund.

Sec. 10A. REPORT ON INVESTMENTS BY INDEPENDENT INVESTMENT CONSULTANT. (a) At least once every three years, the board shall hire an independent investment consultant, including an independent investment consulting firm, to conduct a review of pension system investments and submit a report to the board and the city concerning that review. The independent investment consultant shall review and report on at least the following:

(1) the pension system's compliance with its investment policy statement, ethics policies, including policies concerning the acceptance of gifts, and policies concerning insider trading;

(2) the pension system's asset allocation, including a review and discussion of the various risks, objectives, and expected future cash flows;

(3) the pension system's portfolio structure, including the system's need for liquidity, cash income, real return, and inflation protection and the active, passive, or index approaches for different portions of the portfolio;

(4) investment manager performance reviews and an evaluation of the processes used to retain and evaluate managers;

(5) benchmarks used for each asset class and individual manager;

(6) evaluation of fees and trading costs;

(7) evaluation of any leverage, foreign exchange, or other hedging transaction; and

(8) an evaluation of investment-related disclosures in the pension system's annual reports.

(b) When the board retains an independent investment consultant under this section, the pension system may require the consultant to agree in writing to maintain the confidentiality of:

(1) information provided to the consultant that is reasonably necessary to conduct a review under this section; and

(2) any nonpublic information provided for the pension system for the review.

(c) The costs for the investment report required by this section must be paid from the fund.

Sec. 11. SERVICE CREDIT. (a) A member who returns to service

after an interruption in service is eligible for credit for the previous service to the extent provided by Section 17 or 19 of this article.

(b) Notwithstanding Subsection (a) of this section, if a member has withdrawn the contributions made during any previous period of service, the previous period of service may not be counted in determining years of service unless the contributions are repaid to the pension system in accordance with Section 17 of this article.

(c) A member may not have any service credited for unused sick leave, vacation pay, accumulated overtime, or equivalent types of pay until the date the member retires, at which time the member may apply some or all of the service to satisfy the requirements for retirement, although the member otherwise could not meet the service requirement without the credit.

(d) The board shall determine the prior service to be credited to each employee of the police department who becomes an active member of the pension system. The board shall rely on the personnel records of the city or the police department in determining prior service credits.

Sec. 12. RETIREMENT; AMOUNT OF PENSION; ANNUAL ADJUSTMENTS. (a) A member who separates from service after attaining normal retirement age is eligible to receive a monthly service pension, beginning in the month of separation from service. A member who separates from service as a classified police officer with the city after November 23, 1998, after earning 10 or more but less than 20 years of service in the pension system and who complies with all applicable requirements of Section 19 of this article is eligible to receive a monthly service pension, beginning in the month the individual attains normal retirement age. An individual may not receive a pension under this article while still an active member. All service pensions end with the month in which the retired member dies. The city shall supply all personnel, financial, and payroll records necessary to establish the member's eligibility for a benefit, the member's credited service, and the amount of the benefit. The city must provide those records in the format specified by the pension system.

(b) Except as otherwise provided by this section, including Subsection (b-3) of this section, the monthly service pension of a member who:

(1) is hired before October 9, 2004, including a member

hired before October 9, 2004, who involuntarily separated from service but has been retroactively reinstated under arbitration, civil service, or a court ruling, is equal to the sum of:

(A) 2.75 percent of the member's final average pay multiplied by the member's years or partial years of service for the member's first 20 years of service; and

(B) two percent of the member's final average pay multiplied by the member's years or partial years of service for the member's years of service in excess of the 20 years of service described by Paragraph (A) of this subdivision; or

(2) except as provided by Subdivision (1) of this subsection and subject to Subsection (b-3) of this section, is hired or rehired as an active member on or after October 9, 2004, is equal to the sum of:

(A) 2.25 percent of the member's final average pay multiplied by the member's years or partial years of service for the member's first 20 years of service; and

(B) two percent of the member's final average pay multiplied by the member's years or partial years of service in excess of 20 years of service described by Paragraph (A) of this subdivision.

(b-1) A member who begins to receive a monthly service pension under Subsection (b)(1) of this section shall also receive a one-time lump-sum payment of $5,000 at the same time the first monthly pension payment is made. The lump-sum payment under this subsection is not available to a member who has previously received a $5,000 payment under this section or Section 16 of this article. A member described by Subsection (b)(2) of this section may not receive the lump-sum payment described by this subsection.

(b-2) For purposes of Subsections (b) and (b-1) of this section, partial years shall be computed to the nearest one-twelfth of a year.

(b-3) A member's monthly service pension determined under Subsection (b)(2) of this section may not exceed 80 percent of the member's final average pay.

(c) Subject to Subsection (c-2) of this section, beginning with the fiscal year ending June 30, 2021, the pension payable to a retired member or survivor who is 55 years of age or older as of April 1 of the applicable fiscal year, a member or survivor who received benefits or survivor benefits before June 8, 1995, or a

survivor of an active member who dies from a cause connected with the performance of the member's duties shall be adjusted annually, effective April 1 of each year, upward at a rate equal to the most recent five fiscal years' smoothed return, as determined by the pension system actuary, minus 500 basis points.

(c-1) Subject to Subsection (c-2) of this section, for the pension system's fiscal years ending June 30, 2018, June 30, 2019, and June 30, 2020, the pension payable to each retired member or survivor who is 70 years of age or older shall be adjusted annually, effective April 1 of each year, upward at a rate equal to the most recent five fiscal years' smoothed return, as determined by the pension system actuary, minus 500 basis points.

(c-2) The percentage rate prescribed by Subsections (c) and (c-1) of this section may not be less than zero percent or more than four percent, irrespective of the return rate of the pension system's investment portfolio.

(d) A retired member who receives a service pension under this article is eligible to receive an additional amount each month equal to $150, beginning on the later of the date the retired member's pension begins or the date the first monthly payment becomes due after June 18, 2001, and continuing until the end of the month in which the retired member dies. This amount is intended to defray the retired member's group medical insurance costs and will be paid directly by the fund to the retired member for the retired member's lifetime.

(e) At the end of each calendar year beginning after 1998, and subject to the conditions provided by this subsection, the pension system shall make a 13th benefit payment to each member or survivor who is hired or rehired before October 9, 2004, including a member hired or rehired before October 9, 2004, who was reinstated under arbitration, civil service, or a court ruling after that date, and who is receiving a service pension. The amount of the 13th payment shall be the same as the last monthly payment received by the retiree or survivor before issuance of the payment, except the payment received by any person who has been in pay status for less than 12 months shall be for a prorated amount determined by dividing the amount of the last payment received by 12 and multiplying this amount by the number of months the person has been in pay status. The 13th payment may be made only for those calendar years in which the pension system's funded ratio is 120 percent or greater.

(f) Repealed by Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.32, eff. July 1, 2017.

(g) Notwithstanding anything to the contrary in this article, service pensions that began before May 1, 2001, shall continue to be paid in accordance with applicable prior law, subject only to the adjustments that are specifically provided by this section.

(h) Final average pay for a member who retires after participating in a phase-down program in which the member receives a periodic payment that is generated from the member's accumulated sick time, vacation time, and overtime balances shall be based on the final average pay the member received on the earlier of the date:

(1) immediately preceding the date the member began phase-down participation; or

(2) if the member began DROP participation on or after the year 2017 effective date, the member began participation in DROP.

(i) The computation of final average pay shall be made in accordance with procedures and policies adopted by the board.

(j) A member participating in the phase-down program, defined in the 2011 labor agreement between the city and the police officers' union, who has separated from service is eligible to receive a monthly service pension as if the member had attained normal retirement age. Notwithstanding any other law, a member participating in option A or B of the phase-down program whose effective date of entry into DROP is on or before the year 2017 effective date is, on exiting the phase-down program and separating from service, eligible to receive a monthly service pension equal to the amount credited to the member's DROP account under Section 14(d) of this article immediately before the member separated from service.

(k) If a member is hired on or after October 9, 2004, the member may elect to receive a partial lump-sum optional payment equal to not more than 20 percent of the actuarial value of the member's accrued pension at retirement. The lump-sum payment under this subsection shall be actuarially neutral. Notwithstanding any other law, if a member elects to receive a lump-sum payment under this subsection, the value of the member's monthly service pension shall be reduced actuarially to reflect the lump-sum payment.

(l) A member who is receiving workers' compensation payments or who has received workers' compensation and subsequently retires or begins participation in DROP will have the member's pension or DROP benefit, as applicable, calculated on the pay that the member would

have received had the member not been receiving workers' compensation benefits.

(m) For a member who is promoted or appointed to a position above the rank of captain on or after the year 2017 effective date, the member's monthly service pension and member contributions shall be based on, as determined by the board:

(1) the member's pay for the position the member held immediately before being promoted or appointed; or

(2) the pay of the highest civil rank for classified police officers for those members who have no prior service with the city, which pay must be calculated based on the three-year average prior to retirement.

Sec. 13. RESUMPTION OF SERVICE AS DEPARTMENT HEAD AFTER RETIREMENT. (a) The pension system shall suspend all pension payments to a retired member who has separated from service and is subsequently appointed as the department head of the police department. The suspension of payments begins on the effective date of the person's appointment.

(b) Pension benefits based on the person's previous period of service do not accrue during the period of pension payment suspension described by Subsection (a) of this section, but the person again becomes an active member during this period, and contributions of the city and the department head for the subsequent service are payable during the period. The department head retains credit for all previous service and acquires credit for the subsequent service unless the department head is or becomes a DROP participant.

(c) Once the department head again separates from service, pension benefits under this article shall resume based on both periods of service.

Sec. 14. DEFERRED RETIREMENT OPTION PLAN. (a) In this section "DROP benefit" means the total amount credited to a member's notional DROP account, payable as described by this section, plus a monthly retirement pension.

(b) An active member who was hired before October 9, 2004, including a member hired before October 9, 2004, who has been reinstated under arbitration, civil service, or a court ruling after that date, and has at least 20 years of service with the police department may file with the pension system an election to participate in DROP and receive a DROP benefit instead of the standard form of pension provided by this article as of the date the

active member attained 20 years of service. The election may be made, under procedures established by the board, by an eligible active member who has attained the required years of service. A DROP election that is made and accepted by the board may not be revoked.

(c) The monthly service pension or death benefits of an active member who is a DROP participant that were accrued under this article as it existed immediately before the year 2017 effective date remain accrued.

(c-1) The monthly service pension or death benefits of an active member who becomes a DROP participant on or after the year 2017 effective date will be determined as if the member had separated from service and begun receiving a pension on the effective date of the member's DROP election and the member does not retire but does not accrue additional service credit beginning on the effective date of the member's entry into DROP.

(c-2) For a member who exits DROP on or after the year 2017 effective date:

(1) any increases in the member's pay that occur on or after the effective date of the member's entry into DROP may not be used in computing the member's monthly service pension; and

(2) any cost-of-living adjustments that occur on or after the effective date of the member's entry into DROP and that otherwise would be applicable to the pension will not be made during the time the member participates in DROP.

(d) The member's DROP benefit is determined as provided by this subsection and Subsection (e) of this section. Each month an amount equal to the monthly service pension the active member would have been eligible to receive if the active member had separated from service on the effective date of entry into DROP, less any amount that is intended to help defray the active member's group medical insurance costs as described by Section 12(d) of this article, shall be credited to a notional DROP account for the active member. In any year in which a 13th payment is made to retired members under Section 12(e) of this article, an amount equal to the amount of the 13th payment that would have been made to the DROP participant if the DROP participant had retired on the date of DROP entry will be credited to the DROP account.

(e) As of the end of each month an amount is credited to each active member's notional DROP account at the rate of one-twelfth of a hypothetical earnings rate on amounts in the account. The

hypothetical earnings rate is determined for each calendar year based on the compounded average of the aggregate annual rate of return on investments of the pension system for the five consecutive fiscal years ending June 30 preceding the calendar year to which the earnings rate applies, multiplied by 65 percent. The hypothetical earnings rate may not be less than 2.5 percent.

(f) Repealed by Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.32, eff. July 1, 2017.

(f-1) If a DROP participant separates from service due to death, the participant's surviving spouse is eligible to receive benefits under Sections 16 and 16A of this article and the surviving spouse may elect to receive the DROP benefit in the form of an additional annuity over the life expectancy of the surviving spouse.

(g) In lieu of receiving a lump-sum DROP benefit on separation from service, a retired member who has been a DROP participant or, if separation from service was due to the DROP participant's death, the surviving spouse may leave the retired member's DROP account with the pension system, in which case interest will be credited to the DROP account in the manner described by Subsection (e) of this section.

(h) Instead of beginning to receive a service pension on separation from service in accordance with Section 12 of this article, a retired member who is a DROP participant may elect to have part or all of the amount that would otherwise be paid as a monthly service pension, less any amount required to pay the retired member's share of group medical insurance costs, credited to a DROP account, in which case the additional amounts will become eligible to be credited with hypothetical earnings in the same manner as the amounts described by Subsection (g) of this section. On and after the year 2017 effective date, additional amounts may not be credited to a DROP account under this subsection. Any amounts credited under this subsection before the year 2017 effective date shall remain accrued in a retired member's DROP account.

(i) A retired member who has not attained age 70-1/2, whether or not a DROP participant before retirement, may elect to have part or all of an amount equal to the monthly service pension the retired member would otherwise be entitled to receive, less any amount required to pay the retired member's share of group medical insurance costs, credited to a DROP account, in which case the amounts will become eligible to be credited with hypothetical earnings in the same manner as the amounts described by Subsection (g) of this section.

On and after the year 2017 effective date, additional amounts may not be credited to a DROP account under this subsection. Any amounts credited under this subsection before the year 2017 effective date shall remain accrued in a retired member's DROP account.

(j) A retired member who is a DROP participant, or a surviving spouse, may elect to receive distribution of the DROP account in a one-time lump-sum payment or in any other form of distribution that is approved by the board and satisfies the requirements of Section 401(a)(9) of the code.

(k) If a retired member who is a DROP participant is rehired as an employee of the police department, any pension or DROP distribution that was being paid shall be suspended and the monthly amount described by Subsection (d) of this section will again begin to be credited to the DROP account while the member continues to be an employee. If the member's DROP account has been completely distributed, a new notional account may not be created and the monthly amount described by Subsection (d) of this section may not be credited to a DROP account on behalf of the member.

(l) The maximum number of years an active member may participate in DROP is 20 years. Except as provided by this subsection, after the DROP participant has reached the maximum number of years of DROP participation prescribed by this subsection, including DROP participants with 20 years or more in DROP on or before the year 2017 effective date, the DROP participant may not receive the monthly service pension that was credited to a notional DROP account but may receive the hypothetical earnings rate stated in Subsection (e) of this section. Notwithstanding the preceding, a member's DROP account balance before the year 2017 effective date may not be reduced under the preceding provisions of this subsection.

(m) Repealed by Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.32, eff. July 1, 2017.

Sec. 15. DISABILITY BENEFITS. (a) An active member who becomes totally and permanently incapacitated for the performance of the member's duties as a result of a bodily injury received in, or illness caused by, the performance of those duties shall, on presentation to the board of proof of total and permanent incapacity, be retired and shall receive an immediate duty-connected disability pension equal to:

(1) for members hired or rehired before October 9, 2004, the greater of 55 percent of the member's final average pay at the

time of retirement or the member's accrued service pension; or

(2) for members hired or rehired on or after October 9, 2004, the greater of 45 percent of the member's:

(A) final average pay at the time of retirement; or

(B) accrued service pension.

(a-1) If the injury or illness described by Subsection (a) of this section involves a traumatic event that directly causes an immediate cardiovascular condition resulting in a total disability, the member is eligible for a duty-connected disability pension. A disability pension granted by the board shall be paid to the member for the remainder of the member's life, as long as the incapacity remains, subject to Subsection (e) of this section. If a member is a DROP participant at the commencement of the member's disability, the member shall have the option of receiving the DROP balance in any manner that is approved by the board and that satisfies the requirements of Section 401(a)(9) of the code and Treasury Regulation Section 1.104-1(b) (26 C.F.R. Section 1.104-1) and is otherwise available to any other member under this article.

(b) A member who becomes totally and permanently incapacitated for the performance of the member's duties and is not eligible for either an immediate service pension or a duty-connected disability pension is eligible for an immediate monthly pension computed in the same manner as a service retirement pension but based on final average pay and service accrued to the date of the disability. The pension under this subsection may not be less than:

(1) for members hired before October 9, 2004, including a member who involuntarily separated from service but has been retroactively reinstated under arbitration, civil service, or a court ruling, 27.5 percent of the member's final average pay; or

(2) except as provided by Subdivision (1) of this subsection, for members hired or rehired on or after October 9, 2004, 22.5 percent of the member's final average pay.

(c) A member hired or rehired before October 9, 2004, who becomes eligible to receive a disability pension after November 23, 1998, is eligible to receive:

(1) subject to Subsection (c-1) of this section, a one-time lump-sum payment of $5,000 at the same time the first monthly disability pension payment is made, but only if the member has not previously received a $5,000 payment under this section or Section 12 of this article; and

(2) an additional amount each month equal to $150, beginning on the later of the date the pension begins or the date the first monthly payment becomes due after June 18, 2001, and continuing as long as the disability pension continues, to help defray the cost of group medical insurance.

(c-1) For any year in which a 13th payment is made to retired members under Section 12(e) of this article, a 13th payment, computed in the same manner and subject to the same conditions, shall also be paid to members who have retired under this section.

(d) A person may not receive a disability pension unless the person files with the board an application for a disability pension not later than 180 days after the date of separation from service, at which time the board shall have the person examined, not later than the 90th day after the date the member files the application, by a physician or physicians chosen and compensated by the board. The physician shall make a report and recommendations to the board regarding the extent of any disability and whether any disability that is diagnosed is a duty-connected disability. Except as provided by Subsection (j) of this section, a person may not receive a disability pension for an injury received or illness incurred after separation from service. In accordance with Section 6(g) of this article, the board may, through its presiding officer, issue process, administer oaths, examine witnesses, and compel witnesses to testify as to any matter affecting retirement, disability, or death benefits under any pension plan within the pension system.

(e) A retired member who has been retired for disability is subject at all times to reexamination by a physician chosen and compensated by the board and shall submit to further examination as the board may require. If a retired member refuses to submit to an examination, the board shall order the payments stopped. If a retired member who has been receiving a disability pension under this section recovers so that in the opinion of the board the retired member is able to perform the usual and customary duties formerly performed for the police department, and the retired member is reinstated or offered reinstatement to the position, or hired by another law enforcement agency to a comparable position, the board shall order the member's disability pension stopped. A member may apply for a normal pension benefit, if eligible, if the member's disability benefit payments are stopped by the board under this subsection.

(f) Repealed by Acts 2003, 78th Leg., ch. 1267, Sec. 24.

(g) For purposes of this section, a member is totally and permanently incapacitated from performing duties if the member is prevented by a physical or mental injury or illness from performing duties in the police department after any reasonable accommodation offered by the police department and this condition is expected to be permanent.

(h) Repealed by Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.32, eff. July 1, 2017.

(i) Effective for payments that become due after April 30, 2000, and instead of the disability benefit provided by Subsection (a) or (b) of this section, a member who suffers a catastrophic injury shall receive a monthly benefit equal to 100 percent of the member's final average pay determined as of the date of retirement, and the member's DROP balance, if any.

(j) Repealed by Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.32, eff. July 1, 2017.

(k) A benefit payment that becomes due under this section is effective on the later of the first day the disabled member leaves the payroll of the city or the date the member signs the application for a disability pension.

(l) A disability pension may not be paid to a member for any disability if:

(1) the disability resulted from an intentionally self-inflicted injury or a chronic illness resulting from:

(A) an addiction by the member through a protracted course of non-coerced ingestion of alcohol, narcotics, or prescription drugs not prescribed to the member; or

(B) other substance abuse; or

(2) except as provided by Subsection (m) of this section, the disability was a result of the member's commission of a felony.

(m) The board may waive Subsection (l)(2) of this section if the board determines that facts exist that mitigate denying the member's application for a disability pension.

(n) A person who fraudulently applies for or receives a disability pension may be subject to criminal and civil prosecution.

Sec. 16. RIGHTS OF SURVIVORS. (a) For purposes of this article, a marriage is considered to exist only if the couple is lawfully married under the laws of a state, the District of Columbia, a United States territory, or a foreign jurisdiction and the marriage

would be recognized as a marriage under the laws of at least one state, possession, or territory of the United States, regardless of domicile. In the case of a common-law marriage, a marriage declaration must be signed by the member and the member's common-law spouse before a notary public or similar official and recorded in the records of the applicable jurisdiction in which the couple resides at the commencement of the marriage. In addition, a marriage that is evidenced by a declaration of common-law marriage signed before a notary public or similar official after December 31, 1999, may not be treated as effective earlier than the date on which it was signed before the notary public or similar official.

(b) If a retired member dies after becoming eligible for a service or disability pension, the board shall pay an immediate monthly benefit as follows:

(1) to the surviving spouse for life, if there is a surviving spouse, a sum equal to the pension that was being received by the retired member at the time of death;

(2) to the guardian of any dependent child under 18 years of age or a child with a disability as long as the dependent child complies with the definition of dependent child under Section 2(7) of this article, on behalf of the dependent child, or directly to a dependent child described by Section 2(7)(B) of this article, and if there is no spouse eligible for an allowance, the sum a surviving spouse would have received, to be divided equally among all dependent children if there is more than one dependent child; or

(3) to any dependent parents for life if no spouse or dependent child is eligible for an allowance, the sum the spouse would have received, to be divided equally between the two parents if there are two dependent parents.

(c) If an active member of the pension system who has not completed 20 years of service in the police department is killed or dies from any cause growing out of or in consequence of any act clearly not in the actual performance of the member's official duty, the member's surviving spouse, dependent child or children, or dependent parent or parents are eligible to receive an immediate benefit. The benefit is computed in the same manner as a service retirement pension but is based on the deceased member's service and final average pay at the time of death. The monthly benefit may not be less than:

(1) 27.5 percent of the member's final average pay for

members hired before October 9, 2004, including a member who involuntarily separated from service but has been retroactively reinstated under arbitration, civil service, or a court ruling; or

(2) 22.5 percent of the member's final average pay for members hired or rehired on or after October 9, 2004.

(e) If any active member is killed or dies from any cause growing out of or in consequence of the performance of the member's duty, the member's surviving spouse, dependent child or children, or dependent parent or parents are eligible to receive immediate benefits computed in accordance with Subsection (b) of this section, except that the benefit is equal to 100 percent of the member's final average pay, computed as of the date of death.

(f) A surviving spouse who receives a survivor's benefit under this article is eligible to receive an additional amount each month equal to $150, beginning with the later of the date the first payment of the survivor's benefit is due or the date the first monthly payment becomes due after June 18, 2001, and continuing until the end of the month in which the surviving spouse dies.

(g) A surviving spouse or dependent who becomes eligible to receive benefits with respect to an active member who was hired or rehired before October 9, 2004, who dies in active service after November 23, 1998, is eligible to receive a one-time lump-sum payment of $5,000 at the time the first monthly pension benefit is paid, if the member has not already received a $5,000 lump-sum payment under Section 12 or 15(c) of this article. If more than one dependent is eligible to receive a payment under this subsection, the $5,000 shall be divided equally among the eligible dependents. This payment has no effect on the amount of the surviving spouse's or dependents' monthly pension and may not be paid more than once.

(h) The monthly benefits of surviving spouses or dependents provided under this section, except the $150 monthly payments described by Subsection (f) of this section, shall be increased annually at the same time and by the same percentage as the pensions of retired members are increased in accordance with Section 12(c) or 12(c-1) of this article. Also, for any year in which a 13th payment is made pursuant to Section 12(e) of this article, a 13th payment, computed in the same manner and subject to the same conditions, shall also be made to the survivor who is eligible to receive death benefits at that time if the member would have been entitled to a 13th payment, if living.

(i) If a member or individual receiving a survivor's pension dies before monthly payments have been made for at least five years, leaving no person otherwise eligible to receive further monthly payments with respect to the member, the monthly payments shall continue to be made in the same amount as the last monthly payment made to the member or survivor until payments have been made for five years with respect to the member. The payments shall be made to the spouse of the member, if living, and if no spouse is living, to the natural or adopted children of the member, to be divided equally among the children if the member has more than one child. If the member has no spouse or children who are living, the benefit may not be paid. If the member dies after becoming eligible to receive benefits but before payments begin, leaving no survivors eligible for benefits, the amount of each monthly payment over the five-year period shall be the same as the monthly payment the member would have received if the member had taken disability retirement on the date of the member's death and shall be paid to the member's spouse or children in the manner provided by this subsection. If the member has no spouse or children who are living, then the benefit may not be paid. The member's estate or a beneficiary who is not a survivor or dependent is not eligible to receive the payment described by Subsection (g) of this section.

(j) A benefit payment made in accordance with this section on behalf of a minor or other person under a legal disability fully discharges the pension system's obligation to that person.

(k) A retired member or surviving spouse may designate a beneficiary on a form prescribed by the pension system to receive the final monthly payment owed but not received before the member's or surviving spouse's death.

(l) The board may at any time require a person receiving death benefits as a disabled child under this article to undergo a medical examination by a physician appointed or selected by the board for that purpose.

Sec. 16A. BENEFICIARY DESIGNATION FOR DROP. (a) Except for the marriage requirement described by Section 16(a) of this article, the provisions of Section 16 of this article pertaining to rights of survivors do not apply to an amount held in a member's DROP account. A member who participates in DROP may designate a beneficiary in the form and manner prescribed by or on behalf of the board to receive the balance of the member's DROP account in the event of the member's

death, as permitted by Section 401(a)(9) of the code and the board's policies. A member who is married is considered to have designated the member's spouse as the member's beneficiary unless the spouse consents, in a notarized writing delivered to the board, to the designation of another person as beneficiary. If no designated beneficiary survives the member, the board shall pay the balance of the member's DROP account to the member's beneficiaries in the following order:

(1) to the member's spouse;

(2) if the member does not have a spouse, to each natural or adopted child of the member, or to the guardian of the child if the child is a minor or has a disability, in equal shares;

(3) if the member does not have a spouse or any children, to each surviving parent of the member in equal shares; or

(4) if the member has no beneficiaries described by Subdivisions (1), (2), and (3) of this subsection, to the estate of the member.

(b) If a member names a spouse as a beneficiary and is subsequently divorced from that spouse, the divorce voids the designation of the divorced spouse as the member's beneficiary. A designation of a divorced spouse will cause the board to pay any balance remaining in the member's DROP account in the order prescribed by Subsection (a) of this section.

(c) The surviving spouse may designate a beneficiary on a form prescribed by the pension system to receive the balance of the DROP account owed but not received before the surviving spouse's death.

(d) Payment of the balance of the member's DROP account made in accordance with this section on behalf of a minor or other person under a legal disability fully discharges the pension system's obligation to that person.

Sec. 17. TERMINATION OF EMPLOYMENT; REFUNDS; REEMPLOYMENT. (a) When any active member of the pension system separates from service, either voluntarily or involuntarily, before becoming eligible for an immediate service retirement or disability pension, the member ceases to be an active member of the pension system.

(b) A member of the pension system who has not completed 20 years of service at the time of separation from service with the police department is eligible for a refund of the total of the contributions the member made to the pension system, plus any amount that was contributed for the member by the city and not applied in

accordance with this section to provide the member with 10 years of service. The refund does not include interest, and neither the city nor the member is eligible for a refund of the contributions the city made on the member's behalf, except as expressly provided by this subsection. By receiving the refund, the member forfeits any service earned before separation from service, even if it is otherwise nonforfeitable.

(c) The board shall notify each member of the pension system of the right to a refund as authorized by this section.

(d) A member must apply to the board for a refund within one year after the date of separation from service. Failure to apply for the refund within the one-year period results in a forfeiture of the right to the refund except for an inactive member who is eligible for a pension. However, the board may reinstate any amount forfeited and allow the refund on application by the former member.

(e) Heirs, executors, administrators, personal representatives, or assignees are not eligible to apply for and receive the refund authorized by this section.

(f) If a person who separates from service and receives a refund is subsequently reemployed as an employee of the police department, the person shall be reinstated as an active member of the pension system. Prior service of the active member with the police department may not be counted toward a retirement pension unless the member pays to the pension system, not later than the 90th day after the date of a subsequent separation from service, an amount equal to any contributions previously refunded to the member under this section. Except as provided by Section 18 of this article, a person is not eligible to repay any withdrawn contributions unless the person is reemployed by the police department of the city for which the prior service was performed.

(g) A member who is contesting an indefinite suspension action may, on application to the board, receive a return of the member's contributions and be separated from service on receipt of the contributions; otherwise, a suspended member is considered to have a separation from service when a final decision of the arbitrator adverse to the member is rendered.

(h) Subject to procedures adopted by the board, the pension system shall accept a direct cash transfer of funds from another plan that is an eligible rollover distribution within the meaning of Section 402(f)(2)(A) of the code. The transfer shall be accepted

only for the purpose of repaying contributions the member has previously withdrawn or for other purposes expressly authorized by the board's procedures.

(i) Former members reemployed on or after October 9, 2004, or current members who left service after October 9, 2004, if reemployed by the city, may purchase prior service credit at a rate of interest equal to 2.25 percent per year. Active members hired before October 9, 2004, who have not yet purchased prior service credit or members hired before October 9, 2004, who involuntarily separated from service but have been retroactively reinstated under arbitration, civil service, or a court ruling may purchase prior service credit at a rate of interest equal to 2.75 percent per year. The board may adopt rules necessary to implement this section.

Sec. 18. EMPLOYMENT BY ANOTHER DEPARTMENT. (a) Except as provided by this section:

(1) credit may not be allowed to any person for service with any department in the city other than the police department;

(2) a person's service will be computed from the date of entry into the service of the police department as a classified police officer until the date of separation from service with the police department; and

(3) a member who received service credit for service with any department in the city other than the police department and who is receiving a monthly pension benefit or who began participation in DROP before the year 2017 effective date shall continue to have the service credit apply.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.32, eff. July 1, 2017.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.32, eff. July 1, 2017.

(d) Classified police officers who were formerly employed by a city as park police, airport police, or marshals, who were involuntarily transferred from another city department to the police department of the city, and who are current active members of the pension system shall have the option to receive credit with the pension system for previous service with another pension system of the city, provided that a person may not receive service credit for both pension systems for the same period of service.

Sec. 19. PERSONS REJOINING OR TRANSFERRED BY CITY; SERVICE CREDIT; DOUBLE BENEFITS; RETURN TO SERVICE. (a) An employee of

the city who has retired under this article or under former law governing the pension system and is or has been transferred by action of the city to a classified position in a police department included in the pension system again becomes an active member of the pension system as of the effective date of the transfer.

(b) A person who rejoins the pension system under this section is eligible to receive service credit for each day of service and work performed by the person in a classified position in the police department, except for any period during which the person is a DROP participant. The board shall add service earned after the transfer to the prior service the active member accrued in a classified position in the police department. However, the active member may not receive service credit under this article, except to the extent provided by Section 18, for service performed for the city other than in a classified position in the police department.

(c) After a transfer described by this section, contributions of the city and the active member become payable as for other active members of the pension system.

(d) When a member who has transferred as described by this section subsequently retires, the retired member is eligible for a pension computed on the basis of the combined service described by Subsection (b) of this section, after deducting any period in which the member was suspended from duty without pay, on leave of absence without pay, separated from service, or employed by the city in a capacity other than in a classified position in the police department.

(e) If a retired member receives both pension benefits from the pension system and a salary from a classified position in the police department that cover the same period, the retired member shall repay to the pension system the pension benefits received during that period. The board shall withhold payment of pension benefits under this article if it is determined that a retired member is receiving both pension benefits from the fund and a salary from the police department that cover the same period. On request of the board, the city attorney or a private attorney chosen by the board shall file suit in a court of competent jurisdiction to recover pension benefits owed to the pension system under this subsection.

(f) This article does not authorize the return to service with a police department or the resumption of active membership in the pension system by a retired member except as specifically provided by

Section 13 or 14 of this article or this section.

Sec. 20. DONATIONS. The pension system may accept gifts and donations, and the gifts and donations shall be added to the fund for the use of the pension system, including, but not limited to, for use for education programs and the related administrative expenses of the programs.

Sec. 21. DETERMINATION OF BENEFITS; PROVISION OF INFORMATION. (a) The board may require any member, survivor, or other person or entity to furnish information the board requires for the determination of benefits under this article. If a person or entity does not cooperate in the furnishing or obtaining of information required as provided by this section, the board may withhold payment of the pension or other benefits dependent on the information.

(b) The city, not later than the 14th day after the date the city receives a request by or on behalf of the board, shall, unless otherwise prohibited by law, supply the pension system with personnel, payroll, and financial records in the city's possession that the pension system determines necessary to provide pension administrative and fiduciary services under this section, to establish beneficiaries' eligibility for any benefit, or to determine a member's credited service or the amount of any benefits, including disability benefits, and such other information the pension system may need, including:

(1) information needed to verify service, including the following information:

(A) the date a person is sworn in to a position;

(B) the days a person is under suspension;

(C) the days a person is absent without pay, including the days a person is on maternity leave;

(D) the date of a person's termination from employment; and

(E) the date of a person's reemployment with the city;

(2) medical records;

(3) workers' compensation records and pay information;

(4) payroll information;

(5) information needed to verify whether a member is on military leave; and

(6) information regarding phase-down participants, including information related to entry date and phase-down plan.

(c) The city shall provide any information that may be

reasonably necessary to enable the pension system to comply with administrative services the pension system performs for the city as reasonably necessary to obtain any ruling or determination letter from the Internal Revenue Service.

(d) The information provided by the city shall be transmitted to the pension system electronically in a format specified by the pension system, to the extent available to the city, or in writing if so requested on behalf of the pension system.

(e) The pension system shall determine each member's credited service and pension benefits on the basis of the personnel and financial records of the city and the records of the pension system.

Sec. 22. LEGAL ADVICE. The city attorney of the city shall handle all legal matters for the pension system that are referred by the board without additional compensation for the service. The board may, however, as it considers necessary, employ outside legal counsel to the exclusion of, or to assist, the city attorney and pay reasonable compensation for the service of the additional legal counsel from the fund.

Sec. 23. MEMBERS IN MILITARY SERVICE. (a) A member of the pension system engaged in active service in a uniformed service may not be required to make the monthly payments into the fund and may not lose any previous years' service with the city because of the uniformed service. The uniformed service shall count as continuous service in the police department if the member returns to the city police department after discharge from the uniformed service as an employee within the period required by the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), as amended, and the uniformed service does not exceed the period for which a person is eligible to have service counted pursuant to that Act. Notwithstanding any other provision of this article, contributions and benefits shall be paid and qualified service for military service shall be determined in compliance with Section 414(u) of the code.

(b) The city is required to make its payments into the fund on behalf of each member while the member is engaged in a uniformed service. If a member who has less than 10 years of service in the pension system dies directly or indirectly as a result of the uniformed service, and without returning to active service, the spouse, dependent children, dependent parent, or estate of the member is eligible to receive a benefit in the same manner as described by

Section 16(c) of this article.

Sec. 24. ACTIONS FOR FUNDS MISAPPLIED. (a) The board may recover by civil action from any offending party or from the party's bondsman, if any, any money paid out or obtained from the fund through fraud, misrepresentation, theft, embezzlement, or misapplication and may institute, conduct, and maintain the action in the name of the board for the use and benefit of the fund.

(b) Payments due on behalf of a dependent child shall be paid to the dependent child's guardian, if any, or if none to the person with whom the dependent child is living, except that the board may make payments directly to a dependent child in an appropriate case and withhold payments otherwise due on behalf of any person if the board has reason to believe the payments are not being applied on behalf of the person eligible to receive them. The board may request a court of competent jurisdiction to appoint a person to receive and administer the payments due to any dependent child or person under a disability.

Sec. 25. FEDERAL TAX QUALIFICATION OF FUND. (a) The fund described by this article is intended to qualify under Section 401(a) of the code and is for the exclusive benefit of the members and their survivors. No part of the corpus or income of the fund may ever be used for, or diverted to, any purpose other than the benefit of members and their survivors as provided by this article.

(b) A member or survivor of a member of the pension system may not accrue a retirement pension, disability retirement allowance, death benefit allowance, DROP benefit, or any other benefit under this article in excess of the benefit limits applicable to the fund under Section 415 of the code. The board shall reduce the amount of any benefit that exceeds those limits by the amount of the excess. If total benefits under this fund and the benefits and contributions to which any member is eligible under any other qualified plans maintained by the city that employs the member would otherwise exceed the applicable limits under Section 415 of the code, the benefits the member would otherwise receive from the fund shall be reduced to the extent necessary to enable the benefits to comply with Section 415.

(c) Subject to Subsection (c-1) of this section, any distributee who receives an eligible rollover distribution is eligible to have that distribution transferred directly to another eligible retirement plan of the distributee's choice on providing direction to the pension system regarding that transfer in accordance

with procedures established by the board.

(c-1) For purposes of Subsection (c) of this section:

(1) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

(2) "Distributee" means a member or a member's surviving spouse or non-spouse designated beneficiary or a member's spouse or former spouse who is the alternate payee under a qualified domestic relations order with regard to the interest of the spouse or former spouse.

(3) "Eligible retirement plan" means:

(A) an individual retirement account as defined by Section 408(a) of the code;

(B) an individual retirement annuity as defined by Section 408(b) of the code;

(C) an annuity plan as described by Section 403(a) of the code;

(D) an eligible deferred compensation plan as defined by Section 457(b) of the code that is maintained by an eligible employer as described by Section 457(e)(1)(A) of the code;

(E) an annuity contract as described by Section 403(b) of the code;

(F) a qualified trust as described by Section 401(a) of the code that accepts the distributee's eligible rollover distribution; and

(G) in the case of an eligible rollover distribution, for a designated beneficiary that is not the surviving spouse, a spouse, or a former spouse who is an alternate payee under a qualified domestic relations order, an eligible retirement plan means only an individual retirement account or individual retirement annuity that is established for the purpose of receiving the distribution on behalf of the beneficiary.

(4) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

(A) any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary or for a specified period of 10

years or more;

(B) any distribution to the extent the distribution is required under Section 401(a)(9) of the code; or

(C) any distribution that is made on hardship of the employee.

(d) The annual compensation for each member taken into account for any purpose under this article may not exceed $200,000 for any year for an eligible participant, or for years beginning after 2001 for an ineligible participant, or $150,000 a year before 2001 for an ineligible participant. These dollar limits shall be adjusted from time to time in accordance with guidelines provided by the United States secretary of the treasury and must comply with Section 401(a)(17) of the code. For purposes of this subsection, an eligible participant is a person who first became an active member before 1996, and an ineligible participant is a member who is not an eligible participant.

(e) Accrued benefits under this article become 100 percent nonforfeitable for a member on the date the member has completed 10 years of service. If the pension system or the fund is terminated or partially terminated, or city contributions to the fund are discontinued completely, there may not be a reversion of funds to the employer. On complete or partial termination or discontinuance of city contributions, the fund held by the pension system shall be used exclusively for benefits for members and their surviving spouses and dependents, and the members' rights to the benefits, to the extent funded, shall be nonforfeitable if not already nonforfeitable under this subsection.

(f) Amounts representing forfeited nonvested benefits of terminated members may not be used to increase benefits payable from the fund.

(g) Distribution of benefits must begin not later than April 1 of the year following the calendar year during which the member eligible for the benefits becomes 70-1/2 years of age or terminates employment with the employer, whichever is later, and must otherwise conform to Section 401(a)(9) of the code.

(h) For purposes of adjusting any benefit due to the limitations prescribed by Section 415 of the code, the following provisions shall apply:

(1) the 415(b) limitation with respect to any member who at any time has been a member in any other defined benefit plan as

defined in Section 414(j) of the code maintained by the city shall apply as if the total benefits payable under all the defined benefit plans in which the member has been a member were payable from one plan; and

(2) the 415(c) limitation with respect to any member who at any time has been a member in any other defined contribution plan as defined in Section 414(i) of the code maintained by the city shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one plan.

(h-1) For purposes of adjusting any benefit due to the limitations prescribed by Section 415(b) of the code, the following provisions shall apply:

(1) before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in Section 415(b) of the code, subject to the applicable adjustments in that section;

(2) on and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in Section 415(b)(1)(A) of the code, subject to the applicable adjustments in Section 415(b) of the code and subject to any additional limits that may be specified in the pension system;

(3) in no event may a member's annual benefit payable under the pension system, including any DROP benefits, in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the code, including regulations adopted under that section; and

(4) the "annual benefit" means a benefit payable annually in the form of a straight life annuity, with no ancillary benefits, without regard to the benefit attributable to any after-tax employee contributions, unless attributable under Section 415(n) of the code, and to rollover contributions as defined in Section 415(b)(2)(A) of the code. For purposes of this subdivision, the "benefit attributable" shall be determined in accordance with applicable federal regulations.

(h-2) For purposes of adjustments to the basic limitation under Section 415(b) of the code in the form of benefits, the following provisions apply:

(1) if the benefit under the pension system is other than the form specified in Subsections (h-1)(1)-(3) of this section, including DROP benefits, the benefit shall be adjusted so that it is

the equivalent of the annual benefit, using factors prescribed in applicable federal regulations; and

(2) if the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, Subdivision (1) of this subsection is applied by either reducing the limit under Section 415(b) of the code applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount determined by using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii) that takes into account the additional benefits under the form of benefit as follows:

(A) for a benefit paid in a form to which Section 417(e)(3) of the code does not apply, the actuarially equivalent straight life annuity benefit that is the greater of:

(i) the annual amount of the straight life annuity, if any, payable to the member under the pension system commencing at the same annuity starting date as the form of benefit to the member or the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a five percent interest assumption or the applicable statutory interest assumption; and

(ii) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2), and for years after December 31, 2008, the applicable mortality tables described in Section 417(e)(3)(B) of the code; or

(B) for a benefit paid in a form to which Section 417(e)(3) of the code applies, the actuarially equivalent straight life annuity benefit that is the greatest of:

(i) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;

(ii) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption or the applicable statutory interest assumption, and for years prior to January 1, 2009, the

applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2), and for years after December 31, 2008, the applicable mortality tables described in Section 417(e)(3)(B) of the code; or

(iii) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) using the rate in effect for the month prior to retirement before January 1, 2017, and using the rate in effect for the first day of the plan year with a one-year stabilization period on and after January 1, 2017, and for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2), and for years after December 31, 2008, the applicable mortality tables described in Section 417(e)(3)(B) of the code, divided by 1.05.

(h-3) The pension system actuary may adjust the limitation under Section 415(b) of the code at the annuity starting date in accordance with Subsections (h-1) and (h-2) of this section.

(h-4) The following are benefits for which no adjustment of the limitation in Section 415(b) of the code is required:

(1) any ancillary benefit that is not directly related to retirement income benefits;

(2) the portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity; and

(3) any other benefit not required under Section 415(b)(2) of the code and regulations adopted under that section to be taken into account for purposes of the limitation of Section 415(b)(1) of the code.

(h-5) The following provisions apply to other adjustments of the limitation under Section 415(b) of the code:

(1) in the event the member's pension benefits become payable before the member attains 62 years of age, the limit prescribed by this section shall be reduced in accordance with federal regulations adopted under Section 415(b) of the code, so that that limit, as reduced, equals an annual straight life annuity benefit when the retirement income benefit begins, that is equivalent to a $160,000, as adjusted, annual benefit beginning at 62 years of age;

(2) in the event the member's benefit is based on at least 15 years of service as a full-time employee of any police or fire department or on 15 years of military service, in accordance with Sections 415(b)(2)(G) and (H) of the code, the adjustments provided for in Subdivision (1) of this section may not apply; and

(3) in accordance with Section 415(b)(2)(I) of the code, the reductions provided for in Subdivision (1) of this section may not be applicable to preretirement disability benefits or preretirement death benefits.

(h-6) The following provisions of this subsection govern adjustment of the defined benefit dollar limitation for benefits commenced after 65 years of age:

(1) if the annuity starting date for the member's benefit is after 65 years of age and the pension system does not have an immediately commencing straight life annuity payable at both 65 years of age and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation, with actuarial equivalence computed using a five percent interest rate assumption and the applicable mortality table for that annuity starting date as defined in Section 417(e)(3)(B) of the code, expressing the member's age based on completed calendar months as of the annuity starting date;

(2) if the annuity starting date for the member's benefit is after age 65, and the pension system has an immediately commencing straight life annuity payable at both 65 years of age and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the lesser of the limitation determined under Subdivision (1) of this section and the defined benefit dollar limitation multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the pension system at the member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the pension system at 65 years of age, both determined without applying the limitations of this subsection; and

(3) notwithstanding the other requirements of this section:

(A) no adjustment shall be made to reflect the probability of a member's death between the annuity starting date and

62 years of age, or between 65 years of age and the annuity starting date, as applicable, if benefits are not forfeited on the death of the member prior to the annuity starting date; and

(B) to the extent benefits are forfeited on death before the annuity starting date, the adjustment shall be made, and for this purpose no forfeiture shall be treated as occurring on the member's death if the pension system does not charge members for providing a qualified preretirement survivor annuity, as defined in Section 417(c) of the code, on the member's death.

(h-7) For the purpose of Subsection (h-6)(2) of this section, the adjusted immediately commencing straight life annuity under the pension system at the member's annuity starting date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after 65 years of age but including actuarial adjustments even if those actuarial adjustments are used to offset accruals, and the adjusted immediately commencing straight life annuity under the pension system at 65 years of age is the annual amount of the annuity that would be payable under the pension system to a hypothetical member who is 65 years of age and has the same accrued benefit as the member.

(h-8) The maximum pension benefits payable to any member who has completed less than 10 years of participation shall be the amount determined under Subsection (h-1) of this section, as adjusted under Subsection (h-2) or (h-5) of this section, multiplied by a fraction, the numerator of which is the number of the member's years of participation and the denominator of which is 10. The limit under Subsection (h-9) of this section concerning the $10,000 limit shall be similarly reduced for any member who has accrued less than 10 years of service, except the fraction shall be determined with respect to years of service instead of years of participation. The reduction provided by this subsection cannot reduce the maximum benefit below 10 percent of the limit determined without regard to this subsection. The reduction provided for in this subsection may not be applicable to preretirement disability benefits or preretirement death benefits.

(h-9) Notwithstanding Subsection (h-8) of this section, the pension benefit payable with respect to a member shall be deemed not to exceed the limit provided by Section 415 of the code if the benefits payable, with respect to such member under this pension system and under all other qualified defined benefit pension plans to

which the city contributes, do not exceed $10,000 for the applicable limitation year and for any prior limitation year and the city has not at any time maintained a qualified defined contribution plan in which the member participated.

(h-10) On and after January 1, 1995, for purposes of applying the limits under Section 415(b) of the code to a member's benefit paid in a form to which Section 417(e)(3) of the code does not apply, the following provisions apply:

(1) a member's applicable limit shall be applied to the member's annual benefit in the member's first limitation year without regard to any cost-of-living adjustments under Section 12 of this article;

(2) to the extent that the member's annual benefit equals or exceeds the limit, the member shall no longer be eligible for cost-of-living increases until such time as the benefit plus the accumulated increases are less than the limit; and

(3) after the time prescribed by Subdivision (2) of this subsection, in any subsequent limitation year, a member's annual benefit, including any cost-of-living increases under Section 12 of this article, shall be tested under the applicable benefit limit, including any adjustment under Section 415(d) of the code to the dollar limit under Section 415(b)(1)(A) of the code, and the regulations under those sections.

(h-11) Any repayment of contributions, including interest on contributions, to the plan with respect to an amount previously refunded on a forfeiture of service credit under the plan or another governmental plan maintained by the pension system may not be taken into account for purposes of Section 415 of the code, in accordance with applicable federal regulations.

(h-12) Reduction of benefits or contributions to all plans, where required, shall be accomplished by:

(1) first, reducing the member's benefit under any defined benefit plans in which the member participated, with the reduction to be made first with respect to the plan in which the member most recently accrued benefits and then in the priority determined by the pension system and the plan administrator of such other plans; and

(2) next, reducing or allocating excess forfeitures for defined contribution plans in which the member participated, with the reduction to be made first with respect to the plan in which the member most recently accrued benefits and then in the priority

determined by the pension system and the plan administrator for such other plans.

(h-13) Notwithstanding Subsection (h-12) of this section, reductions may be made in a different manner and priority pursuant to the agreement of the pension system and the plan administrator of all other plans covering such member.

(i) To the extent permitted by law, the board may adjust the benefits of retired members and survivors by increasing any benefit that was reduced because of Section 415 of the code. If Section 415 of the code is amended to permit the payment of amounts previously precluded under that section, the board may adjust the benefits of retired members or their surviving spouses or dependents, including the restoration of benefits previously denied. Benefits paid under this subsection are not considered as extra base salary earned after retirement but as the delayed payment of benefits earned before retirement.

(j) The board may make any change in this article to the extent that the change is necessary to assure compliance with the qualification requirements of Section 401 of the code or any other federal law.

Sec. 26. EXCESS BENEFIT PLAN. (a) A separate, nonqualified, unfunded excess benefit plan is created outside the fund.

(b) In this section:

(1) "Excess benefit plan" or "plan" means the separate, nonqualified, unfunded excess benefit plan created by this section for the benefit of eligible members, as amended or restated from time to time, that is intended to be a "qualified governmental excess benefit arrangement" within the meaning of Section 415(m) of the code.

(2) "Qualified plan" means the pension system and any other plan maintained by the city for the exclusive benefit of some or all of the members of the pension system that has been found by the Internal Revenue Service to be qualified or has been treated by the city as a qualified plan under Section 401 of the code.

(3) "Maximum benefit" means the retirement benefit a retired member and the spouse, dependent child, or dependent parent of a retired member or deceased member or retiree are eligible to receive from all qualified plans in any month after giving effect to Section 25(b) of this article and any similar provisions of any other qualified plans designed to conform to Section 415 of the code.

(4) "Excess benefit participant" means any retired member whose retirement benefits as determined on the basis of all qualified plans without regard to the limitations of Section 25(b) of this article and comparable provisions of other qualified plans would exceed the maximum benefit permitted under Section 415 of the code.

(5) "Unrestricted benefit" means the monthly retirement benefit a retired member and the spouse, dependent child, or dependent parent of a retired member or deceased member would have received under the terms of all qualified plans except for the restrictions of Section 25(b) of this article and any similar provisions of any other qualified plans designed to conform to Section 415 of the code.

(c) An excess benefit participant who is receiving benefits from the pension system is eligible for a monthly benefit under this excess benefit plan in an amount equal to the lesser of:

(1) the member's unrestricted benefit less the maximum benefit; or

(2) the amount by which the member's monthly benefit from the fund has been reduced because of the limitations of Section 415 of the code.

(d) If a spouse, dependent child, or dependent parent is eligible for preretirement or postretirement death benefits under a qualified plan after the death of an excess benefit participant, the surviving spouse, dependent child, or dependent parent is eligible for a monthly benefit under the excess benefit plan equal to the benefit determined in accordance with this article without regard to the limitations under Section 25(b) of this article or Section 415 of the code, less the maximum benefit.

(e) Any benefit to which a person is eligible under this section shall be paid at the same time and in the same manner as the benefit would have been paid from the pension system if payment of the benefit from the pension system had not been precluded by Section 25(b) of this article. An excess benefit participant or any beneficiary may not, under any circumstances, elect to defer the receipt of all or any part of a payment due under this section.

(f) The board shall administer the plan, and the board's designee shall also carry out the business of the board with respect to the plan. Except as otherwise provided by this section, the rights, duties, and responsibilities of the board and the board's designee are the same for the plan as for the funds of the pension

system.

(g) The consultants, independent auditors, attorneys, and actuaries selected to perform services for the fund also shall perform services for the plan, but the fees for their services may not be paid by the fund. The actuary engaged to perform services for the fund shall advise the board of the amount of benefits that may not be provided from the fund solely by reason of the limitations of Section 415 of the code and the amount of employer contributions that will be made to the plan rather than to the fund.

(h) Contributions may not be accumulated under the plan to pay future retirement benefits. Instead, each payment of city contributions that would otherwise be made to the fund under Section 9 of this article shall be reduced by the amount determined by the board or its designee as necessary to meet the requirements for retirement benefits under the plan, including reasonable administrative expenses, until the next payment of city contributions is expected to be made to the pension system. The city shall then pay to the plan, from the withheld contributions, not earlier than the 30th day before the date each distribution of monthly retirement benefits is required to be made from the plan, the amount necessary to satisfy the obligation to pay monthly retirement benefits from the plan. The board or its designee shall satisfy the obligation of the plan to pay retirement benefits from the employer contributions so transferred for that month.

(i) Employer contributions otherwise required to be made to the pension system under Section 9 of this article and any other qualified plan shall be divided into those contributions required to pay retirement benefits under this section and those contributions paid into and accumulated to pay the maximum benefits permitted under the qualified plan. Employer contributions made to provide retirement benefits under this section may not be commingled with the money of the fund forming part of the pension system or any other qualified plan.

Sec. 27. CERTAIN WRITTEN AGREEMENTS BETWEEN PENSION SYSTEM AND CITY AUTHORIZED. (a) Notwithstanding any law to the contrary, the board or a designee of the board is responsible for representing the interests of the pension system and all pension issues and benefits affecting the pension system or its members and beneficiaries under this article. The board may enter into a written agreement with the city on behalf of the pension system and members and beneficiaries of

the pension system if the agreement is approved by the board and signed by the mayor and the board or the board's designee.

(b) A pension benefit or allowance provided by this article may be increased if the increase:

(1) is first approved by a qualified actuary selected by the board;

(2) is approved by the board and the city in a written agreement as authorized by this section; and

(3) does not deprive a member, without the member's written consent, of a right to receive benefits when the member is fully eligible.

(c) In a written agreement entered into between the city and the board under this section, the parties may not:

(1) alter Sections 9 through 9E of this article, except and only to the extent necessary to comply with federal law;

(2) increase the assumed rate of return to more than seven percent per year;

(3) extend the amortization period of a liability layer to more than 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability layer is first recognized; or

(4) allow a city contribution rate in any year that is less than or greater than the city contribution rate required under Section 9D or 9E of this article, as applicable.

Sec. 28. NONREDUCTION, NONALIENATION, AND NONASSIGNMENT OF BENEFITS. (a) No portion of the funds held by the pension system, either before or after an order for its disbursement by the board, and no amounts due or to become due to any member or survivor under this article may be held, seized, taken, subject to, detained, or levied on by virtue of any execution, attachment, garnishment, injunction, or other writ, and no order or decree, and no process may issue out of or by any court of this state for the payment or satisfaction, in whole or in part, out of the funds held by or due from the pension system, of any debt, damage, claim, demand, or judgment against any member, survivor, dependent, or any other person.

(b) No part of the funds or any claim to the funds may be directly or indirectly assigned or transferred. Any attempt to transfer or assign any part of the funds or a claim to the funds is void.

(c) The funds shall be held, kept, and disbursed for the purposes provided by this article, and for no other purpose, except that a retired member, survivor, or dependent, at the person's discretion, may have deducted from the person's pension the monthly premium cost of any group insurance program in which the retired member is participating.

(d) A benefit payable under this article may not be reduced or discontinued for any person except under the terms applicable to the benefit at the time the person becomes eligible to receive the benefit.

(e) This section does not prevent the division of the benefits accrued by a member under any court order determined by the board or its designee to be a qualified domestic relations order and the payment of a share of a retired member's benefits or contributions to an alternate payee in accordance with the order.

Sec. 29. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS OR BENEFICIARIES. (a) Information contained in a record that is in the custody of a fund established under this article concerning an individual member, retiree, survivor, or beneficiary is confidential for purposes of Sections 552.101, 552.102, and 552.117, Government Code. The information may not be disclosed in a form that identifies a specific individual unless the information is disclosed to:

(1) the individual;

(2) the individual's attorney, guardian, executor, administrator, or conservator; or

(3) a person who has written authorization from the individual to receive the information.

(b) This section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree, deceased member, survivor, beneficiary, or alternate payee of the system.

(c) To carry out the provisions of Sections 9 through 9E of this article, the board and the pension system shall provide the city actuary under a confidentiality agreement the actuarial data used by the pension system actuary for the pension system's actuarial valuations or valuation studies and other data as agreed to between the city and the pension system that the city actuary determines is reasonably necessary for the city actuary to perform the studies required by Sections 9A through 9E of this article. Actuarial data described by this subsection does not include information described

by Subsection (a) of this section.

(d) A risk sharing valuation study prepared by either the city actuary or the pension system actuary under Sections 9A through 9E of this article may not:

(1) include information described by Subsection (a) of this section; or

(2) provide confidential or private information regarding specific individuals or be grouped in a manner that allows confidential or private information regarding a specific individual to be discerned.

(e) The information, data, and document exchanges under Sections 9 through 9E of this article have all the protections afforded by applicable law and are expressly exempt from the disclosure requirements under Chapter 552, Government Code, except as may be agreed to by the city and pension system in a written agreement under Section 27 of this article.

(f) Subsection (e) of this section does not apply to:

(1) a proposed risk sharing valuation study prepared by the pension system actuary and provided to the city actuary or prepared by the city actuary and provided to the pension system actuary under Section 9A(d) or 9B(b)(2) of this article; or

(2) a final risk sharing valuation study prepared under Section 9A or 9B of this article.

(g) Before a union contract is approved by the city, the mayor of the city must cause the city actuaries to deliver to the mayor a report estimating the impact of the proposed union contract on fund costs.

Sec. 30. FORFEITURE OF BENEFITS. (a) Notwithstanding any other law, a member who is convicted, after exhausting all appeals, of an offense punishable as a felony of the first degree in relation to, arising out of, or in connection with the member's service as a classified police officer may not receive any benefits under this article.

(b) After the member described by Subsection (a) of this section is finally convicted, the member's spouse may apply for benefits if the member, but for application of Subsection (a) of this section, would have been eligible for a pension benefit or a delayed payment of benefits. If the member would not have been eligible for a pension benefit or a delayed payment of benefits, the member's spouse may apply for a refund of the member's contributions. A

refund under this subsection does not include interest and does not include contributions the city made on the member's behalf. The city may not receive a refund of any contributions the city made on the member's behalf.

Added by Acts 1999, 76th Leg., ch. 381, Sec. 1, eff. Sept. 1, 1999. Sec. 1 amended by Acts 2003, 78th Leg., ch. 1267, Sec. 1, eff. Sept. 1, 2003; Sec. 2(1) and (2) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 2, eff. Sept. 1, 2003; Sec. 2(4-a) added by Acts 2003, 78th Leg., ch. 1267, Sec. 2, eff. Sept. 1, 2003; Sec. 2(7), (11) and (14) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 2, eff. Sept. 1, 2003; Sec. 2(14-a), added by Acts 2003, 78th Leg., ch. 1267, Sec. 2, eff. Sept. 1, 2003; Sec. 2(19) renumbered Sec. 2(17-a) by Acts 2003, 78th Leg., ch. 1267, Sec. 2, eff. Sept. 1, 2003; Sec. 2(22-a) added by Acts 2003, 78th Leg., ch. 1267, Sec. 2, eff. Sept. 1, 2003; Sec. 2(23) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 2, eff. Sept. 1, 2003; Sec. 3(a) to (d), (f) and (g) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 3, eff. Sept. 1, 2003; Sec. 3(h) added by Acts 2003, 78th Leg., ch. 1267, Sec. 3, eff. Sept. 1, 2003; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 4, eff. Sept. 1, 2003; Sec. 5(b-1) added by Acts 2003, 78th Leg., ch. 1267, 5, eff. Sept. 1, 2003; Sec. 5(d) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 5, eff. Sept. 1, 2003; Sec. 6(e-1) added by Acts 2003, 78th Leg., ch. 1267, Sec. 6, eff. Sept. 1, 2003; Sec. 6(f) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 6, eff. Sept. 1, 2003; Sec. 6(g) and (h) added by Acts 2003, 78th Leg., ch. 1267, Sec. 6, eff. Sept. 1, 2003; Sec. 7(d) and (f) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 7, eff. Sept. 1, 2003; Sec. 8(a) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 8, eff. Sept. 1, 2003; Sec. 9 heading and sec. 9(a) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 9, 10, eff. Sept. 1, 2003; Sec. 9(b) repealed by Acts 2003, 78th Leg., ch. 1267, Sec. 24, eff. Sept. 1, 2003; Sec. 11(a) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 11, eff. Sept. 1, 2003; Sec. 12(a), (b), (d), (f) and (g) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 12, eff. Sept. 1, 2003; Sec. 12(h) and (i) added by Acts 2003, 78th Leg., ch. 1267, Sec. 12, eff. Sept. 1, 2003; Sec. 14(b) to (f) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 13, eff. Sept. 1, 2003; Sec. 14(f-1) added by Acts 2003, 78th Leg., ch. 1267, Sec. 13, eff. Sept. 1, 2003; Sec. 14(g), (j) and (l) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 13, eff. Sept. 1, 2003; Sec. 14(m)

added by Acts 2003, 78th Leg., ch. 1267, Sec. 13, eff. Sept. 1, 2003; Sec. 15(a) to (d) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 14, eff. Sept. 1, 2003; Sec. 15(f) repealed by Acts 2003, 78th Leg., ch. 1267, Sec. 24, eff. Sept. 1, 2003; Sec. 15(h) to (k) added by Acts 2003, 78th Leg., ch. 1267, Sec. 14, eff. Sept. 1, 2003; Sec. 16(a) and (c) amended by Acts 2003, 78th Leg., ch. 1267, 15, eff. Sept. 1, 2003; Sec. 16(d) repealed by Acts 2003, 78th Leg., ch. 1267, Sec. 24, eff. Sept. 1, 2003; Sec. 16(f) to (h) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 15, eff. Sept. 1, 2003; Sec. 16A added by Acts 2003, 78th Leg., ch. 1267, Sec. 16, eff. Sept. 1, 2003; Sec. 17(h) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 17, eff. Sept. 1, 2003; Sec. 18(a) and (b) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 18, eff. Sept. 1, 2003; Sec. 18(d) added by Acts 2003, 78th Leg., ch. 1267, 18, eff. Sept. 1, 2003. Sec. 20 amended by Acts 2003, 78th Leg., ch. 1267, Sec. 19, eff. Sept. 1, 2003; Sec. 22 amended by Acts 2003, 78th Leg., ch. 1267, Sec. 20, eff. Sept. 1, 2003; Sec. 23 amended by Acts 2003, 78th Leg., ch. 1267, Sec. 21, eff. Sept. 1, 2003; Sec. 25(d) and (e) amended by Acts 2003, 78th Leg., ch. 1267, Sec. 22, eff. Sept. 1, 2003; Sec. 29 added by Acts 2003, 78th Leg., ch. 1267, Sec. 23, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.01, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.02, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.03, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.04, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.05, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.06, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.07, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.08, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.09, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.10, eff.

July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.11, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.12, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.13, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.14, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.15, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.16, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.17, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.18, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.19, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.20, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.21, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.22, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.23, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.24, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.25, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.26, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.27, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.28, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.29, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.30, eff.

July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.31, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 2.32, eff. July 1, 2017.

Art. 6243h. MUNICIPAL PENSION SYSTEM IN CITIES OF 1,500,000 OR MORE.

Sec. 1. DEFINITIONS. In this Act:

(1) "Actuarial data" includes:

(A) the census data, assumption tables, disclosure of methods, and financial information that are routinely used by the pension system actuary for the pension system's studies or an actuarial experience study under Section 8D of this Act; and

(B) other data that is reasonably necessary to implement Sections 8A through 8F of this Act, as agreed to by the city and pension board.

(1-a) "Actuarial experience study" has the meaning assigned by Section 802.1014, Government Code.

(1-b) "Adjustment factor" means the assumed rate of return less two percentage points.

(1-c) "Amortization period" means the time period necessary to fully pay a liability layer.

(1-d) "Amortization rate" means the sum of the scheduled amortization payments less the city contribution amount for a given fiscal year for the liability layers divided by the projected pensionable payroll for the same fiscal year.

(1-e) "Assumed rate of return" means the assumed market rate of return on pension system assets, which is seven percent per annum unless adjusted as provided by this Act.

(1-f) "Authorized absence" means:

(A) each day an employee is absent due to an approved holiday, vacation, accident, or sickness, if the employee is continued on the employment rolls of the city or the pension system, receives the employee's regular salary from the city or the pension system for each day of absence, and remains eligible to work on recovery or return; or

(B) any period that a person is on military leave of

absence under Section 18(a) of this Act, provided the person complies with the requirements of that section.

(2) "Average monthly salary" means:

(A) the amount computed by dividing the sum of the 78 highest biweekly salaries paid to an employee during years of credited service by 36; or

(B) if there are fewer than 78 biweekly salaries paid to an employee during the employee's period of credited service, the amount computed by multiplying the average of all biweekly salaries paid to the employee during the period of credited service by 26 and dividing the product by 12.

(3) "Benefit accrual rate" means the percentage in Section 10(d) or (e) of this Act for each year of a member's credited service used to compute a pension or benefit.

(4) "City" means a municipality having a population of more than two million.

(4-a) "City contribution amount" means, for each fiscal year, a predetermined payment amount expressed in dollars in accordance with a payment schedule amortizing the legacy liability, 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 8C(a)(3) of this Act, as may be restated from time to time in:

(A) a subsequent risk sharing valuation study to reflect adjustments to the amortization schedule authorized by Section 8E or 8F of this Act; or

(B) a restated initial risk sharing valuation study or a subsequent risk sharing valuation study to reflect adjustments authorized by Section 8C(i) or (j) of this Act.

(4-b) "City contribution rate" means a percent of pensionable payroll that is the sum of the employer normal cost rate and the amortization rate for liability layers, excluding the legacy liability, except as determined otherwise under the express provisions of Sections 8E and 8F of this Act.

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

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

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

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

(4-e) "Corridor midpoint" means the projected city contribution rate specified for each fiscal year for 31 years in the initial risk sharing valuation study under Section 8C of this Act, and as may be adjusted under Section 8E or 8F of this Act, and in each case rounded to the nearest hundredths decimal place.

(4-f) "Cost-of-living adjustment percentage" means a percentage that:

(A) except as provided by Paragraph (B), is equal to the pension system's five-year investment return, based on a rolling five-year basis and net of investment expenses, minus the adjustment factor, and multiplied by 50 percent; and

(B) may not be less than zero or more than two percent.

(5) "Credited service" means each day of service and prior service of a member for which:

(A) the city and the member have made required contributions to the pension fund that were not subsequently withdrawn;

(B) the member has purchased service credit or converted service credit from group B to group A by paying into the pension fund required amounts that were not subsequently withdrawn;

(C) the member has reinstated service under Section 7(g) of this Act; and

(D) the member has previously made payments to the pension fund that, under then existing provisions of law, make the member eligible for credit for the service and that were not subsequently withdrawn.

(6) "Deferred participant" means a person who:

(A) has separated from service;

(B) has at least five years of credited service in the pension system;

(C) has not met the eligibility requirements for a normal retirement pension; and

(D) has made an election under Section 17(c) of this Act.

(7) "Dependent child" means an unmarried natural or legally adopted child of a member, deferred participant, or retiree who:

(A) was supported by the member, deferred participant, or retiree before the termination of employment of the member, deferred participant, or retiree; and

(B) is under 21 years of age or is totally and permanently disabled from performing any full-time employment because of an injury, illness, serious mental illness, intellectual disability, or pervasive development disorder that began before the child became 18 years of age and before the termination of employment of the member, deferred participant, or retiree.

(8) "Disability" means the complete and permanent inability of a member to perform the usual and customary duties that the member has been performing as an employee, or any other full-time duties for which the member is reasonably suited by training or experience, as determined by the pension board on the basis of a medical examination and any other evidence the pension board determines is necessary.

(9) "Effective retirement date" means the first day retirement begins for a member or deferred participant who is eligible for retirement. If the pension system receives a member's application for normal retirement before the member's separation from service or not later than the 90th day after the date of the member's separation from service, the effective retirement date is the later of the first day of the month following the month of separation or the date specified in the application. If the pension system receives the member's application after the 90th day after the date of the member's separation from service, the effective retirement date is the later of the first day of the month after the pension system receives the application or the date specified in the application. The effective retirement date for a member who qualifies for a service or ordinary disability retirement is the later of the day following the member's last day of credited service or the date the pension system receives the member's request for disability retirement.

(10) "Eligible survivor" means a surviving spouse or dependent child.

(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.

(11-a) "Employer normal cost rate" means the normal cost rate minus the applicable member contribution rate for newly hired employees, initially set as three percent for group D members on the year 2017 effective date. The present value of additional member contributions different from the group D rate taken into account for purposes of determining the employer normal cost rate must be applied toward the actuarial accrued liability.

(11-b) "Estimated city contribution amount" means the city contribution amount estimated in a final risk sharing valuation study under Section 8B or 8C of this Act, as applicable, as required by Section 8B(a)(5) of this Act.

(11-c) "Estimated city contribution rate" means the city contribution rate estimated in a final risk sharing valuation study under Section 8B or 8C of this Act, as applicable, as required by Section 8B(a)(5) of this Act.

(11-d) "Estimated total city contribution" means the total city contribution estimated by the pension system actuary or the city actuary, as applicable, by using the estimated city contribution rates and the estimated city contribution amounts recommended by each actuary for purposes of preparing the initial risk sharing valuation study under Section 8C of this Act.

(11-e) "Fiscal year," except as provided by Section 1B of this Act, means a fiscal year beginning on July 1 and ending on June 30.

(11-f) "Funded ratio" means the ratio of the pension system's actuarial value of assets divided by the pension system's actuarial accrued liability.

(11-g) "Legacy liability" means the unfunded actuarial accrued liability:

(A) for the fiscal year ending June 30, 2016, reduced to reflect:

(i) changes to benefits and contributions under this Act that took effect on the year 2017 effective date;

(ii) the deposit of pension obligation bond proceeds on December 31, 2017, in accordance with Section 8C(j)(2) of this Act; and

(iii) payments by the city and earnings at the assumed rate of return allocated to the legacy liability from July 1, 2016, to July 1, 2017, excluding July 1, 2017; and

(B) for each subsequent fiscal year:

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

(ii) adjusted by the assumed rate of return.

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

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

(11-j) "Liability layer" means the legacy liability established in the initial risk sharing valuation study under Section 8C of this Act and the unanticipated change as established in each subsequent risk sharing valuation study prepared under Section 8B of this Act.

(11-k) "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.

(12) "Marriage" means a marriage in which:

(A) a marriage certificate is recorded in the records of the county clerk's office in the county in which the marriage ceremony was performed; or

(B) in the case of a common-law marriage, a marriage declaration is executed by the couple and recorded in the records of the county clerk's office in the county in which the couple resides. For separations from service after June 29, 2002, a marriage that is evidenced by a declaration of common-law marriage signed before a notary public after June 30, 2002, may not be treated as effective before the date it was signed before the notary public.

(12-a) "Maximum contribution rate" means the rate equal to the corridor midpoint plus the corridor margin.

(12-b) "Minimum contribution rate" means the rate equal to the corridor midpoint minus the corridor margin.

(13) "Member" means each active employee included in the pension system, except for an employee who is ineligible under Section 4 of this Act.

(14) "Military service" means active service in the armed forces of the United States or wartime service in the armed forces of the United States or in the allied forces, if credit for military service has not been granted under any federal or other state system or used in any other retirement system, except as expressly required

under federal law.

(14-a) "Normal cost rate" means the salary weighted average of the individual normal cost rates determined for the current active population, plus the assumed administrative expenses determined in the most recent actuarial experience study conducted under Section 8D of this Act, expressed as a rate, provided the assumed administrative expenses may not exceed 1.25 percent of pensionable payroll for the current fiscal year unless agreed to by the city.

(14-b) "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.

(15) "Pension" means a benefit payable to a retired member out of the pension fund based on a disability or service retirement.

(16) "Pension board" means the board of trustees of the pension system created under Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), and reenacted and continued under this Act for the purpose of administering the pension system.

(17) "Pension fund" means assets consisting of the contributions made by the city, contributions made by any member, and any income, profits, or other amounts resulting from the investment of those contributions.

(17-a) "Pension obligation bond" means a bond issued in accordance with Chapter 107, Local Government Code.

(18) "Pension system," unless the context otherwise requires, means the retirement, disability, and survivor benefit plans for municipal employees of a city under this Act and employees under Section 3(d) of this Act.

(18-a) "Pension system actuary" means the actuary engaged by the pension system under Section 2B of this Act.

(18-b) "Pensionable payroll" means the combined salaries, 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.

(19) "Predecessor system" means the retirement system authorized by Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes).

(20) "Previous service" means any service as an employee,

other than prior service, that preceded a member's current period of employment.

(20-a) "Price inflation assumption" means:

(A) the most recent headline consumer price index 10-year forecast published in the Federal Reserve Bank of Philadelphia Survey of Professional Forecasters; or

(B) if the forecast described by Paragraph (A) of this subdivision is not available, another standard as determined by mutual agreement between the city and the pension board entered into under Section 3(n) of this Act.

(21) "Prior service" means any service performed as an employee before September 1, 1943.

(21-a) "Projected pensionable payroll" means the estimated pensionable payroll for the fiscal year beginning 12 months after the date of the risk sharing valuation study prepared under Section 8B of this Act, at the time of calculation by:

(A) projecting the prior fiscal year's pensionable payroll forward two years using the current payroll growth rate assumptions; 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 pension board.

(22) "Retiree" means a former member of the pension system who:

(A) has separated from service;

(B) has met the eligibility requirements for a deferred retirement pension, normal retirement pension, or disability pension under this Act; and

(C) is receiving a deferred retirement pension, normal retirement pension, or disability pension under this Act based on service that was credited to the person.

(23) "Salary" means base pay, longevity pay, and shift-differential pay paid to an employee and attributable to services rendered by the employee, regardless of how the employee was paid.

(24) "Separation from service" means the cessation of work for the city or the pension system in an eligible position covered by this Act for any reason involving the person's removal from the employment rolls of the city or the pension system, including death, discharge, resignation, or retirement, the effective date of which shall be certified by the city or the pension system. The term

includes the termination of employment.

(25) "Service" means each day of services and work performed by an employee, including an authorized absence. The term does not include a period in which a person:

(A) is a DROP participant;

(B) is suspended from duty without pay;

(C) is on leave of absence without pay;

(D) is ineligible for membership under Section 4 of this Act; or

(E) is separated from service.

(26) "Surviving spouse" means a spouse by marriage of a member, deferred participant, or retiree at the time of death of the member, deferred participant, or retiree and as of the date of separation from service by the member, deferred participant, or retiree.

(26-a) "Third quarter line rate" means the corridor midpoint plus 2.5 percentage points.

(26-b) "Total city contribution" means, for a fiscal year, an amount equal to the sum of:

(A) the city contribution rate multiplied by the pensionable payroll for the fiscal year; and

(B) the city contribution amount for the fiscal year.

(27) "Trustee" means a trustee of the pension board.

(28) "Ultimate entry age normal" means an actuarial cost method under which a calculation is made to determine the average uniform and constant percentage rate of contributions that, if applied to the compensation of each member during the entire period of the member's anticipated covered service, would be required to meet the cost of all benefits payable on the member's behalf based on the benefits provisions for newly hired employees. For purposes of this definition, the actuarial accrued liability for each member is the difference between the member's present value of future benefits based on the tier of benefits that apply to the member and the member's present value of future normal costs determined using the normal cost rate.

(29) "Unfunded actuarial accrued liability" means the difference between the actuarial accrued liability and the actuarial value of assets. For purposes of this definition:

(A) "actuarial accrued liability" means the portion of the actuarial present value of projected benefits attributed to past

periods of member service based on the cost method used in the risk sharing valuation study prepared under Section 8B or 8C of this Act, as applicable; and

(B) "actuarial value of assets" means the value of pension plan investments as calculated using the asset smoothing method used in the risk sharing valuation study prepared under Section 8B or 8C of this Act, as applicable.

(30) "Unanticipated change" means, with respect to the unfunded actuarial accrued liability in each subsequent risk sharing valuation study prepared under Section 8B 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.

(31) "Year 2017 effective date" means the date on which S.B. No. 2190, Acts of the 85th Legislature, Regular Session, 2017, took effect.

Sec. 1A. INTERPRETATION OF ACT. This Act does not and may not be interpreted to:

(1) relieve the city, the pension board, or the pension system of their respective obligations under Sections 8A through 8F of this Act;

(2) reduce or modify the rights of the city, the pension system, or the pension board, including any officer or employee of the city, pension system, or pension board, to enforce obligations described by Subdivision (1) of this subsection;

(3) relieve the city, including any official or employee of the city, from:

(A) paying or directing to pay required contributions to the pension system or fund under Section 8 or 8A of this Act or carrying out the provisions of Sections 8A through 8F of this Act; or

(B) reducing or modifying the rights of the pension board and any officer or employee of the pension board or pension system to enforce obligations described by Subdivision (1) of this section;

(4) relieve the pension board or pension system, including any officer or employee of the pension board or pension system, from any obligation to implement a benefit change or carry out the

provisions of Sections 8A through 8F of this Act; or

(5) reduce or modify the rights of the city and any officer or employee of the city to enforce an obligation described by Subdivision (4) of this section.

Sec. 1B. FISCAL YEAR. If either the pension system or the city changes its respective fiscal year, the pension system and the city shall enter into a written agreement under Section 3(n) of this Act to adjust the provisions of Sections 8A through 8F of this Act to reflect that change for purposes of this Act.

Sec. 1C. ALTERNATIVE RETIREMENT PLANS. (a) In this section, "salary-based benefit plan" means a retirement plan provided by the pension system under this Act that provides member benefits that are calculated in accordance with a formula that is based on multiple factors, one of which is the member's salary at the time of the member's retirement.

(b) Notwithstanding any other law, including Section 8H of this Act, and except as provided by Subsection (c) 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 a cash balance retirement plan or plans, if both parties consider it appropriate.

(c) Notwithstanding any other law, including Section 8H of this Act, and except as provided by Subsection (d) of this section, if, beginning with the final risk sharing valuation study prepared under Section 8B of this Act on or after July 1, 2027, either the funded ratio of the pension system is less than 60 percent as determined in the final risk sharing valuation study without making any adjustments under Section 8E or 8F of this Act, or 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 a cash balance retirement plan that complies with Section 1D of this Act; and

(2) require each employee first hired by the city on or after the 90th day 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

salary-based benefit plan, provided the employee would have otherwise been eligible to participate in the salary-based benefit plan.

(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, the pension board and 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 plan participant" means an employee who participates in a cash balance retirement plan.

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

(3) "Interest" means the interest credited to a cash balance plan participant's notional account, which may not:

(A) exceed a percentage rate equal to the cash balance retirement plan's most recent five fiscal years' smoothed rate of return; or

(B) be less than zero percent.

(4) "Salary-based benefit plan" has the meaning assigned by Section 1C of this Act.

(b) The written agreement 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 20 years from the date an actuarial gain or loss is realized;

(3) provide for the crediting of city and cash balance plan participant contributions to each cash balance plan participant's notional account;

(4) provide for the crediting of interest to each cash balance plan participant's notional account;

(5) include a vesting schedule;

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

(7) provide for death and disability benefits;

(8) allow a cash balance plan participant who is eligible

to retire under the plan to elect to:

(A) receive a monthly annuity payable for the life of the cash balance plan participant in an amount actuarially determined on the date of the cash balance plan participant's retirement based on the cash balance plan participant's accumulated notional account balance annuitized in accordance with the actuarial assumptions and actuarial methods established in the most recent actuarial experience study conducted under Section 8D of this Act, except that the assumed rate of return applied may not exceed the pension system's assumed rate of return in the most recent risk sharing valuation study; or

(B) receive a single, partial lump-sum payment from the cash balance plan 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 cash balance plan participant's account balance after receiving the partial lump-sum payment; and

(9) include any other provision determined necessary by:

(A) the pension board and the city; or

(B) the pension system for purposes of maintaining the tax-qualified status of the pension system under Section 401, Internal Revenue Code of 1986, as amended.

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

(1) subject to Subsection (d) of this section, is not eligible to be a member of and may not participate in the salary-based benefit plan; and

(2) may not earn credited service in the salary-based benefit plan during the period the employee is participating in the cash balance retirement plan.

(d) A cash balance plan participant is considered a member for purposes of Section 8A through 8I of this Act.

(e) At the time of implementation of the cash balance retirement plan, the employer normal cost rate of the cash balance retirement plan may not exceed the employer normal cost rate of the salary-based benefit plan.

Sec. 1E. CONFLICT OF LAW. To the extent of a conflict between this Act and any other law, this Act prevails.

Sec. 2. PENSION BOARD. (a) The pension board of the predecessor system shall continue to administer, manage, and operate the pension system, including directing investments and overseeing

the fund's assets.

(b) The pension system shall operate for the benefit of the employees of a city and the pension system. The pension system continues to operate regardless of whether the city's population falls below the population required for the city. The pension board is not subject to Title 9, Property Code.

(c) The pension board consists of 11 trustees as follows:

(1) one person appointed by the mayor of the city;

(2) one person appointed by the controller of the city;

(3) four municipal employees of the city who are members of the pension system;

(4) two retirees, each of whom:

(A) has at least five years of credited service in the pension system;

(B) receives a retirement pension from the pension system; and

(C) is not an officer or employee of the city;

(5) one person appointed by the elected trustees who has been a resident of this state for the three years preceding the date of initial appointment; and

(6) two persons appointed by the governing body of the city.

(c-1) To serve as a trustee under Subsection (c)(1), (2), or (6) of this section, a person may not be a participant in or beneficiary of the pension system.

(c-2) A trustee appointed under Subsection (c)(1), (2), (5), or (6) of this section must have expertise in at least one of the following areas: accounting, finance, pensions, investments, or actuarial science. Of the trustees appointed under Subsections (c)(1), (2), and (6) of this section, not more than two trustees may have expertise in the same area.

(c-3) A trustee appointed under Subsection (c)(1) of this section shall serve a three-year term expiring in July of the applicable year. The appointed trustee may be removed at any time by the mayor. The mayor shall fill a vacancy caused by the trustee's death, resignation, or removal and the person appointed to fill the vacancy shall serve the remainder of the unexpired term of the replaced trustee and may not serve beyond the expiration of the unexpired term unless appointed by the mayor.

(c-4) A trustee appointed under Subsection (c)(2) of this

section shall serve a three-year term expiring in July of the applicable year. The appointed trustee may be removed at any time by the controller. The controller shall fill a vacancy caused by the trustee's death, resignation, or removal and the person appointed to fill the vacancy shall serve the remainder of the unexpired term of the replaced trustee and may not serve beyond the expiration of the unexpired term unless appointed by the controller.

(d) To serve as a trustee under Subsection (c)(3) of this section, a person must be a member with at least five years of credited service and be elected by the active members of the pension system voting at an election called by the pension board. No more than two of the employee trustees may be employees of the same department.

(e) A person elected as an employee trustee under Subsection (d) of this section who retires during the trustee's term shall remain in office until the expiration of the term. Persons elected as employee trustees serve staggered four-year terms, with the terms of two of the trustees expiring in each even-numbered year. Each employee trustee shall continue to serve until a successor is qualified.

(f) A vacancy caused by an employee trustee's death, resignation, or removal shall be filled by an appointment made by a majority of the trustees elected by the members of the pension system on a notarized affidavit of appointment submitted to the executive director not later than the 10th day after the date the vacancy occurs. The appointee serves for the remainder of the unexpired term of the replaced trustee. If the notarized affidavit of appointment is not timely submitted, the executive director shall call an election to be held not later than the 90th day after the date of the vacancy to elect an employee trustee to fill the vacancy.

(g) To serve as a trustee under Subsection (c)(4) of this section, a person must be elected by a majority of the retirees voting at an election called by the pension board.

(h) Persons elected as retiree trustees serve four-year staggered terms, with the term of one trustee expiring in each even-numbered year.

(i) Each retiree trustee serves until the retiree's successor is qualified. A vacancy caused by a retiree trustee's death, resignation, or removal shall be filled by appointment made by the other trustee normally chosen by retiree election on a notarized

affidavit of appointment submitted to the executive director not later than the 10th day after the date the vacancy occurs. The appointee serves for the remainder of the unexpired term of the replaced trustee. If the notarized affidavit of appointment is not timely submitted, the executive director shall call an election to be held not later than the 90th day after the date of the vacancy to elect a retiree trustee to fill the vacancy.

(j) To serve as a trustee under Subsection (c)(5) of this section, the person must be appointed by a vote of a majority of the elected trustees of the pension board. The trustee appointed under Subsection (c)(5) of this section shall serve a three-year term. The appointment or reappointment of the appointed trustee shall take place in July of the year in which the term ends. The appointed trustee may be removed at any time by a vote of a majority of the elected trustees of the pension board. A vacancy caused by the appointed trustee's death, resignation, or removal shall be filled by the elected trustees of the pension board. The appointee serves for the remainder of the unexpired term of the replaced trustee. An appointed trustee may not serve beyond the expiration of the three-year term unless a majority of the elected trustees of the pension board reappoint the trustee for a new term.

(j-1) To serve as a trustee under Subsection (c)(6) of this section, a person must be appointed by a vote of a majority of the members of the governing body of the city. Each trustee appointed under Subsection (c)(6) of this section shall serve three-year terms expiring in July of the applicable year. A trustee appointed under Subsection (c)(6) of this section may be removed at any time by a vote of a majority of the members of the governing body of the city. A vacancy caused by the appointed trustee's death, resignation, or removal shall be filled by a vote of a majority of the members of the governing body of the city. A person appointed to fill the vacancy shall serve the remainder of the unexpired term of the replaced trustee, and may not serve beyond the expiration of the unexpired term unless appointed by the governing body of the city.

(j-2) If a majority of the pension board determines that a trustee appointed under Subsection (c)(1), (2), or (6) of this section has acted or is acting in a manner that conflicts with the interests of the pension system or is in violation of this Act or any agreement between the pension board and the city entered into under Section 3(n) of this Act, the pension board may recommend to the

mayor, controller, or governing body, as appropriate, that the appointed trustee be removed from the pension board. If the appointed trustee was appointed by the governing body of the city, an action item concerning the pension board's recommendation shall be placed on the governing body's agenda for consideration and action. The governing body shall make a determination on the recommendation and communicate the determination to the pension system not later than the 45th day after the date of the recommendation.

(k) Notwithstanding any other provision in this section, if an eligible candidate for an elected trustee position on the pension board is unopposed for an election, the election may not be held for that position, and the pension board shall certify the candidate as elected to the pension board on the executive director's designation that the candidate is eligible to be a trustee under this section and is unopposed for election. The pension board's certification shall be effective on the day following the date the preceding term for the trustee position expires.

(l) To serve on the pension board, each trustee shall, on or before the first pension board meeting following the trustee's most recent election or appointment, take an oath of office that the trustee:

(1) will diligently and honestly administer the pension system; and

(2) will not knowingly violate this Act or willingly allow a violation of this Act to occur.

(m) A trustee serves without bond unless otherwise required by law and may not receive compensation for service on the pension board. The pension board by resolution may adopt a policy for removal of a trustee.

(n) The person serving as a trustee under Subsection (c)(2) of this section serves as the treasurer of the pension fund. The treasurer shall file an official bond payable to the pension system. The treasurer is liable on the treasurer's official bond for the faithful performance of the treasurer's duties under this Act in connection with the pension fund.

(o) The pension board shall receive, manage, and disburse the pension fund as provided by this Act and rules adopted by the pension board.

(p) In each odd-numbered year, the pension board shall elect from the elected trustees a chair, vice chair, and secretary.

(q) The pension board shall hold regular monthly meetings at a time and place set by the chair. The chair, the secretary, or a majority of the trustees may call a special meeting of the pension board.

(r) The city shall allow city employees who are trustees to promptly attend all pension board and committee meetings. The city shall allow trustees the time required to travel to and attend educational workshops, legislative hearings, and meetings regarding proposed amendments to this Act if attendance is consistent with a trustee's duty to the pension board.

(s) Notice shall be given to all trustees of the pension board, unless waived in writing, as to any proposed meeting by any method reasonably calculated to give adequate notice of the meeting. The notice may be delivered by mail, personal delivery, or electronically transmitted notice, including facsimile, and shall be properly addressed to each trustee. If a meeting occurs that all trustees of the pension board attend, notice is not necessary under this subsection.

(t) Each trustee is entitled to one vote on the pension board. A majority of concurring votes present at any meeting of the pension board is needed for a decision by the trustees. A majority of the trustees is a quorum. A trustee who is a member may not vote on any issue relating specifically to that trustee.

(u) The city shall provide full and timely information to the pension board about employees as reasonably required by the pension board to administer the pension fund and provide benefits properly, including information relating to the hiring of employees, members' service dates, compensation of members, members' deaths, and terminations of employment.

(v) The pension board may purchase from an insurer licensed to do business in this state an insurance policy that provides for reimbursement of a trustee, officer, or employee of the pension board for liability imposed for damages caused by an alleged act, error, or omission committed in the individual's capacity as fiduciary or cofiduciary of assets of the pension fund and for costs and expenses incurred by a fiduciary or cofiduciary in defense of a claim of an alleged act, error, or omission. A policy of insurance purchased under this subsection may not provide for reimbursement of a trustee, officer, or employee of the pension board for liability imposed or expenses incurred because of the individual's personal dishonesty,

fraudulent breach of trust, lack of good faith, intentional fraud or deception, or intentional failure to act prudently. The cost of insurance coverage purchased under this subsection shall be paid from money in the pension fund.

(w) If the insurance described in Subsection (v) of this section is not in effect, the pension board may indemnify a trustee, officer, or employee of the pension board for liability imposed as damages because of an alleged act, error, or omission committed in the individual's capacity as fiduciary or cofiduciary of assets of the pension fund and for reasonable costs and expenses incurred by a fiduciary or a cofiduciary in defense of a claim of an alleged act, error, or omission. Indemnification may not extend to liability imposed or expenses incurred by a trustee, officer, or employee of the pension board because of the individual's personal dishonesty, fraudulent breach of trust, lack of good faith, intentional fraud or deception, or intentional failure to act prudently. A determination of indemnification shall be made by a majority vote of the pension board. If a proposed indemnification is of a trustee, that trustee may not vote on the matter. In the event the vote of the pension board results in a tie, the indemnification shall be approved. The pension board may adopt a policy establishing a method for presentation, approval, and payment of claims for indemnification. Indemnification approved under this subsection extends to acts, errors, and omissions of trustees, officers, or employees of the predecessor system as long as the alleged act, error, or omission occurs after July 1, 1989.

(x) The pension board shall manage the pension fund under this Act and under the Internal Revenue Code of 1986, as amended, and may:

(1) adopt, for the administration of the pension fund, written rules and guidelines;

(2) interpret and construe this Act and any summary plan, descriptions, or benefits procedures, except that each construction must meet any qualification requirements established under Section 401, Internal Revenue Code of 1986, as amended;

(3) correct any defect, supply any omission, and reconcile any inconsistency that appears in this Act in a manner and to the extent that the pension board considers expedient to administer this Act for the greatest benefit of all members;

(4) determine all questions, whether legal or factual, relating to eligibility for membership, service, or benefits or

relating to the administration of the pension fund to promote the uniform administration of the pension fund for the benefit of all members and retirees; and

(5) establish and maintain records necessary or appropriate for the proper administration of the pension fund.

(y) The determination of any fact by the pension board and the pension board's interpretation of this Act are final and binding on any interested party, including members, deferred participants, retirees, eligible survivors, beneficiaries, and the city.

(z) The pension board shall determine the prior service to be credited to each member of the pension system based on:

(1) the personnel records of the city; or

(2) affidavits, if the personnel records are incomplete.

(aa) The pension board shall determine each member's credited service based on the personnel and financial records of the city and the records of the pension board.

(bb) The trustees and the executive director may rely on:

(1) tables, valuations, certificates, and reports furnished by any actuary employed by the pension board;

(2) certificates and reports made by an accountant selected or approved by the pension board;

(3) any report furnished by the treasurer; and

(4) opinions given by any legal counsel selected or approved by the pension board.

(cc) The trustees, executive director, and employees of the pension system are fully protected and free of liability for any action taken or suffered by them in good faith in reliance on the actuary, accountant, treasurer, or counsel, and the action is conclusively binding on all employees, members, deferred participants, retirees, eligible survivors, beneficiaries, and other persons.

(dd) A gathering of any number of trustees to investigate, research, or review prospective or current investments, without formal action by the trustees, is not a deliberation or meeting under Chapter 551, Government Code, and is not required to be open to the public.

(ee) A trustee appointed under Subsection (c)(1), (2), (5), or (6) of this section who fails to attend at least 50 percent of all regular pension board meetings, as determined annually each July 1, may be removed from the pension board by the appointing entity. A

trustee removed under this subsection may not be appointed as a trustee for one year following removal.

(ff) All trustees appointed under Subsection (c) of this section shall complete minimum educational training requirements established by the State Pension Review Board. The appointing entity may remove an appointed trustee who does not complete minimum educational training requirements during the period prescribed by the State Pension Review Board.

(gg) The pension board shall adopt an ethics policy governing, among other matters, conflicts of interest that each trustee must comply with during the trustee's term on the pension board.

(hh) During a trustee's term on the pension board and for one year after leaving the pension board, a trustee may not represent any other person or organization in any formal or informal appearance before the pension board or pension system staff concerning a matter for which the person has or had responsibility as a trustee.

(ii) The pension board may establish standing or temporary committees as necessary to assist the board in carrying out its business, including committees responsible for risk management or governance, investments, administration and compensation, financial and actuarial matters, audits, disability determinations, and agreements under Section 3(n) of this Act. The pension board shall establish a committee responsible for agreements under Section 3(n) of this Act that must be composed of the elected trustees and the trustee appointed by the elected trustees. Except for a committee responsible for agreements under Section 3(n) of this Act and any committee responsible for personnel issues:

(1) each committee must include at least one elected trustee and one trustee appointed by the mayor, controller, or governing body of the city;

(2) committee meetings are open to all trustees; and

(3) a committee may not make final decisions and may only make recommendations to the pension board.

(jj) Subsections (x)(1) through (4), (y), and (cc) of this section do not grant the pension board authority to modify or terminate Sections 8A through 8F of this Act.

Sec. 2A. CONFLICTS OF INTEREST. (a) The existence or appearance of a conflict of interest on the part of any trustee is detrimental to the proper functioning of the pension system if not properly addressed. An appointed trustee may not deliberate or vote

on an action relating to the investment of pension system assets if:

(1) the trustee or an entity with which the trustee is affiliated:

(A) is a competitor or an affiliate of the person or firm that is the subject of or otherwise under consideration in the action; or

(B) likely would be subject to a due diligence review by the person or firm that is under consideration in the investment-related action; or

(2) the pension board otherwise determines that the proposed action would create a direct or indirect benefit for the appointed trustee or a firm with which the appointed trustee is affiliated.

(b) The city attorney shall:

(1) provide annual training to trustees appointed by the city regarding conflicts of interest; and

(2) to the extent authorized by city ordinances, at the request of the external affairs committee of the pension board, review and take appropriate action on a complaint alleging a conflict of interest on the part of a city-appointed trustee.

Sec. 2B. PENSION SYSTEM ACTUARY; ACTUARIAL VALUATIONS. (a) The pension board shall retain an actuary or actuarial firm for purposes of this Act.

(b) At least annually, the pension system actuary shall make a valuation of the assets and liabilities of the pension fund. The valuation must include the risk sharing valuation study conducted under Section 8B or 8C of this Act, as applicable.

(c) The pension system shall provide a report of the valuation to the city.

Sec. 2C. QUALIFICATIONS OF CITY ACTUARY. (a) An actuary hired by the city for purposes of this Act must be an actuary from a professional service firm who:

(1) is not already engaged by the pension system or any other pension system or fund authorized under Article 6243e.2(1) or 6243g-4, Revised Statutes, to provide actuarial services to the pension system or fund, as applicable;

(2) has a minimum of 10 years of professional actuarial experience; and

(3) is a fellow of the Society of Actuaries or a member of the American Academy of Actuaries and who, in carrying out duties for

the city, has met the applicable requirements to issue statements of actuarial opinion.

(b) Notwithstanding Subsection (a) of this section, the city actuary must at least meet the qualifications required by the board for the pension system actuary. The city actuary is not required to have greater qualifications than those of the pension system actuary.

Sec. 2D. REPORT ON INVESTMENTS BY INDEPENDENT INVESTMENT CONSULTANT. (a) At least once every three years, the board shall hire an independent investment consultant, including an independent investment consulting firm, to conduct a review of pension system investments and submit a report to the board and the city concerning the review or demonstrate in the pension system's annual financial report that the review was conducted. The independent investment consultant shall review and report on at least the following:

(1) the pension system's compliance with its investment policy statement, ethics policies, including policies concerning the acceptance of gifts, and policies concerning insider trading;

(2) the pension system's asset allocation, including a review and discussion of the various risks, objectives, and expected future cash flows;

(3) the pension system's portfolio structure, including the pension system's need for liquidity, cash income, real return, and inflation protection and the active, passive, or index approaches for different portions of the portfolio;

(4) investment manager performance reviews and an evaluation of the processes used to retain and evaluate managers;

(5) benchmarks used for each asset class and individual manager;

(6) an evaluation of fees and trading costs;

(7) an evaluation of any leverage, foreign exchange, or other hedging transaction; and

(8) an evaluation of investment-related disclosures in the pension system's annual reports.

(b) When the board retains an independent investment consultant under this section, the pension system may require the consultant to agree in writing to maintain the confidentiality of:

(1) information provided to the consultant that is reasonably necessary to conduct a review under this section; and

(2) any nonpublic information provided for the pension system for the review.

(c) The costs for the investment report required by this section shall be paid from the pension fund.

Sec. 3. ADDITIONAL POWERS OF PENSION BOARD. (a) If the pension board determines that there is a surplus of funds in an amount exceeding the current obligations of the pension fund, the pension board may invest the surplus in the manner provided by Chapter 802, Government Code.

(b) The pension board may contract with a person to perform any investment, administrative, legal, medical, accounting, clerical, or other service the pension board considers appropriate, including:

(1) a certified public accountant or firm of certified public accountants to perform an audit of the pension fund at times and intervals the pension board considers necessary;

(2) a professional investment manager or firm of managers as provided by Section 802.204, Government Code;

(3) an actuary or actuarial firm at times and for purposes the pension board considers appropriate; and

(4) an attorney or law firm to advise, assist, or represent the pension board in any legal matter relating to the pension fund.

(c) A fee for a service or person contracted with under Subsection (b) of this section may be paid from the pension fund.

(d) The pension board may hire employees as the pension board considers advisable for the proper and efficient administration of the system, including persons described in Subsection (b) of this section, whose positions and salaries shall be set by the pension board.

(e) The executive director hired by the pension board is the plan administrator.

(f) The pension board shall compensate from the pension fund the persons performing services under Subsections (d) and (e) of this section and may provide other employee benefits that the pension board considers proper. Any person employed by the pension board under Subsection (d) or (e) of this section who has service credits with the pension system at the time of the person's employment by the pension board retains the person's status in the pension system. Any person employed by the pension system on or after January 1, 2008, who does not have service credits with the pension system at the time of employment is a group D member in accordance with Section 5 of this Act. The pension board shall adopt a detailed annual budget detailing its proposed administrative expenditures under this

subsection for the next fiscal year.

(g) The pension board may institute legal action in the name of the pension board on behalf of the pension system, including a civil action to recover from any offending party, or from the party's surety, money paid out or obtained from the pension fund through fraud, misrepresentation, defalcation, theft, embezzlement, or misapplication.

(h) The pension board may offset amounts received wrongly or in error by a member, deferred participant, retiree, eligible survivor, alternate payee, or beneficiary from future pension or benefit payments payable to the person or the person's beneficiaries.

(i) On written request from the chair, the city attorney shall represent the pension board or the pension fund in any legal matter. The city attorney may not be compensated from the pension fund for providing representation. The pension board may employ, if necessary, legal counsel instead of the city attorney or to assist the city attorney and may pay reasonable compensation from the pension fund.

(j) The pension board may obtain from any member, deferred participant, retiree, eligible survivor, alternate payee, or beneficiary any information the pension board considers necessary for the proper administration of the pension system. The pension board may require any member, survivor, or other person or entity to furnish information the pension board requires for the determination of benefits under this Act. If a person or entity does not cooperate in the furnishing or obtaining of information, the pension board may withhold payment of the pension or other benefits until the pension board receives the information.

(k) On majority vote of the trustees, the pension board may allocate among the trustees the responsibilities of the pension board under this Act and may designate any person who is not a trustee, including the executive director and other employees, to carry out the responsibilities of the pension board under this Act.

(l) The pension board may by resolution make the implementation of a provision of this Act contingent on receipt of a favorable private letter ruling or favorable determination letter from the Internal Revenue Service if the pension board determines that the action is in the best interest of the pension system.

(m) It is intended that this Act be construed and administered in a manner so that the pension system's benefit plan will be

considered a qualified plan under Section 401(a), Internal Revenue Code of 1986, as amended. The pension board may adopt rules that qualify the plan to the extent necessary for the pension system to be a qualified plan. Rules adopted by the pension board under this subsection are considered a part of the plan. In determining qualification status under Section 401(a), Internal Revenue Code of 1986, as amended, the pension system's benefit plan shall be considered the primary retirement plan for members of the pension system.

(n) Notwithstanding any other law and except as specifically limited by Subsection (o) of this section, the pension board may enter into a written agreement with the city regarding pension issues and benefits. The agreement must be approved by the pension board and the governing body of the city and signed by the mayor and by the pension board or the pension board's designee. The agreement is enforceable against and binding on the pension board, the city, and the pension system, including the pension system's members, retirees, deferred participants, beneficiaries, eligible survivors, and alternate payees. Any reference in this Act to an agreement between the city and the pension board or pension system is a reference to an agreement entered under this subsection.

(o) In any written agreement entered into between the city and the pension board under Subsection (n) of this section, the parties may not:

(1) alter Sections 8A through 8F of this Act, except and only to the extent necessary to comply with federal law;

(2) increase the assumed rate of return to more than seven percent per year;

(3) extend the amortization period of a liability layer to more than 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability layer is first recognized; or

(4) allow a total city contribution in any fiscal year that is less than the total city contribution required under Section 8E or 8F, as applicable, of this Act.

(p) Annually on or before the end of the fiscal year, the pension board shall make a report to the mayor and the governing body of the city, each of which shall provide a reasonable opportunity for the pension board to prepare and present the report.

(q) The pension board shall provide quarterly investment

reports to the mayor.

(r) At the mayor's request, the pension board shall meet, discuss, and analyze with the mayor or the mayor's representatives any city proposed policy changes and ordinances that may have a financial effect on the pension system.

(s) The pension board shall work to reduce administrative expenses, including by working with any other pension fund to which the city contributes.

Sec. 4. INELIGIBLE INDIVIDUALS. Notwithstanding any other provision of this Act, the following employees of the city or of the pension system are not eligible to become members of the pension system:

(1) persons on quasi-legislative, quasi-judicial, and advisory pension boards and commissions;

(2) part-time employees, as defined by the city, other than elected officials whose service is made part-time by law or charter;

(3) seasonal employees;

(4) independent contractors, including consultants; and

(5) employees in positions covered by any other pension plan of the city to which the city contributes, including employees who are excluded from membership in another pension plan by action of the board of trustees of the other pension plan, except to the extent that they are covered in another pension plan only as a beneficiary.

Sec. 5. INDIVIDUALS ELIGIBLE FOR MEMBERSHIP. (a) Individuals described in this section are eligible for membership under this Act.

(b) Except as provided by Subsection (c), (j), or (k) of this section and Sections 4 and 6 of this Act, an employee is a group A member of the pension system as a condition of employment if the employee:

(1) is hired or rehired as an employee by the city, the predecessor system, or the pension system on or after September 1, 1999, and before January 1, 2008;

(2) was a member of the predecessor system before September 1, 1981, under the terms of Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), and did not make an election before December 1, 1981, under Section 22(a) of that Act to receive a refund of contributions and become a group B member;

(3) was a group A member who terminated employment included in the predecessor system before May 3, 1991, elected under Section

16, Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), to leave the member's contributions in that pension fund, met the minimum service requirements for retirement at an attained age, was reemployed in a position included in the predecessor system before September 1, 1999, and elected, not later than the 30th day after the date reemployment began, to continue as a group A member;

(4) became a member of, or resumed membership in, the predecessor system as an employee or elected official of the city after January 1, 1996, and before September 1, 1999, and elected by submission of a signed and notarized form in a manner determined by the pension board to become a group A member and to contribute a portion of the person's salary to the pension fund as required by Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes); or

(5) met the requirements of Section 3B, Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), or Subsection (f) of this section for membership in group A.

(c) Except as otherwise provided by this section or Section 4 of this Act, an employee continues as a group B member of the pension system as a condition of employment if the employee:

(1) was hired or rehired by the city or the predecessor system after September 1, 1981, and before September 1, 1999, and did not make an election under Section 3A, Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), to become a group A member; or

(2) was a member of the predecessor system before September 1, 1981, under the terms of Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), and made an election before December 1, 1981, under Section 22 of that Act to receive a refund of contributions and become a group B member.

(d) Except as otherwise provided by this section, Section 4 or 6 of this Act, or Section 22A, Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), any employee of the city or of the pension system who is an executive official as defined by Section 6 of this Act is a group C member of the pension system. A group C member is subject to the same provisions that apply to group A members except as otherwise

provided by Section 6 of this Act.

(e) Any member or former member of the pension system elected to an office of the city on or after September 1, 1999, and before January 1, 2008, is a group A member and is eligible to receive credit for all previous service on the same conditions as reemployed group A members under Sections 7(c), (d), (e), and (f) of this Act, except as otherwise provided by this Act. For purposes of this subsection, consecutive terms of office of any elected member who is elected to an office of the city are considered to be continuous employment for purposes of this Act.

(f) Each group B member of the pension system may make an irrevocable election on a date and in a manner determined by the pension board to change membership from group B to group A:

(1) for future service only; or

(2) for future service and to convert all past group B service to group A service and comply with the requirements of Subsection (h) of this section provided the service is converted before December 31, 2005.

(g) Each group A member with service in group B may make an irrevocable election not later than December 31, 2005, and in a manner determined by the pension board to convert all group B service to group A service and to comply with the requirements of Subsection (h) of this section.

(h) A member who makes an election under Subsection (f) or (g) of this section must pay into the pension fund all contributions that would have been deducted as member contributions to group A during the period that the person was a group B member, as computed under Section 7(c), (d), (e), or (f) of this Act, including required interest. Payment of these amounts must be completed before the earliest of the date of the termination of the member's employment or term in office, the date of the member's retirement or death, or the fifth anniversary of the date of the member's election under this section. If the payments are not completed by that date, the member or the member's estate may either make an immediate payment of the balance due or receive a refund, without interest, of the amount the member paid as contributions to group A for the period that the person was a group B member. If a refund is paid under this subsection and the member made the election under Subsection (f) of this section, the member is considered to have been a group B member during the period preceding the member's election and to have been a

group A member since the date of the member's election. If a refund is paid under this subsection and the member made the election under Subsection (g) of this section, all of the group B service that the member had elected to convert to group A service reverts back to group B service.

(i) A member who makes an election under Subsection (f)(1) or (2) of this section shall pay required contributions under Section 8 of this Act for all service after the date of the election.

(j) Except as provided by Subsection (k) of this section or Section 4 of this Act, an employee is a group D member of the pension system as a condition of employment if the employee is hired as an employee by the city or the pension system on or after January 1, 2008.

(k) Notwithstanding any provision of this section, for purposes of Subsection (j) of this section:

(1) consecutive terms of office of an elected member who is elected to an office of the city are considered to be continuous employment; and

(2) a former employee who is rehired as an employee by the city or the pension system on or after January 1, 2008, is, as a condition of employment, a member of the group in which that employee participated at the time of the employee's immediately preceding separation from service.

Sec. 6. GROUP C MEMBERSHIP, SERVICE REQUIREMENTS, AND BENEFITS. (a) A group C member is subject to the provisions that apply to group A members under this Act, except as otherwise provided by this section.

(b) In this section:

(1) "Credited service" means the number of whole and fractional years of a member's eligible service in group C as an executive official after the executive official's effective date of participation in group C for which member and employer contributions are on deposit with the pension fund.

(2) "Effective date of participation in group C" means September 1, 1999, except that for an employee who first becomes an executive official and whose contributions to group C begin after that date, the effective date of participation in group C is the first date on which the employee qualifies as an executive official and for which applicable contributions are made for service in group C as an executive official.

(3) "Executive official" means a person in one of the following categories:

(A) the chief administrative officer of the city;

(B) the executive director of the pension system; or

(C) a full-time appointed director of a department of the city as designated by the governing body of the city and approved by the pension board, other than a director who is covered by another pension system to which the city contributes or an acting director or the equivalent.

(4) "Group C" means the executive officials' plan established under Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), and reenacted and continued under this Act.

(c) An executive official becomes a member of group C on the official's effective date of participation in group C, except that a group A or group B member who is participating in the DROP under Section 12 of this Act is ineligible to become a member of group C.

(d) A group C member receives two times the number of actual years of credited service in group C solely for the purpose of fulfilling the eligibility requirements for a deferred or normal retirement pension in group C as provided by Subsection (e) of this section. For all other computations under this Act, the actual years of credited service in group C are used.

(e) A group C member who ceases to be an executive official is eligible for a deferred or normal retirement pension beginning on the member's effective retirement date when the member separates from service and:

(1) fulfills the requirement for years of age and years of credited service for a normal retirement pension under Section 10(b) of this Act; or

(2) attains 65 years of age with any amount of group C credited service.

(f) For purposes of group C service under this section, the amount of the monthly:

(1) normal retirement pension for a group C member equals the member's average monthly salary multiplied by two times the benefit accrual rate in effect for group A members and that product multiplied by the group C member's actual years of credited service in group C;

(2) deferred retirement pension for a group C member is

computed under Subdivision (1) of this subsection, but based on the member's average monthly salary and actual years of credited service as of the member's last day of credited service and subject to the provisions of this Act in effect on the member's last day of credited service;

(3) ordinary disability pension for a group C member under Section 13 of this Act is computed under Subdivision (1) of this subsection;

(4) service disability pension for a group C member under Section 13 of this Act is the greater of:

(A) the amount computed under Subdivision (1) of this subsection; or

(B) the amount computed under Section 13(b) of this Act; and

(5) survivor benefit for any eligible survivor of a deceased group C member under Section 14(b) of this Act is computed under Section 14(b), but based on the ordinary disability benefit as computed under Subdivision (3) of this subsection.

(g) Any previous service of a group C member in group A or group B is governed by the applicable group A or group B provisions of this Act and may not be credited to group C, except as provided in Subsection (i) of this section. Group C service may not be credited to group A or group B.

(h) This section applies to a member only while the member is an eligible executive official. A member who ceases to be an executive official and transfers to or is rehired into a municipal position covered by group A participates in group A, does not forfeit group C service, and remains eligible for normal retirement for group C service as provided under Subsection (e) of this section. A former group C member is not eligible to participate in group B.

(i) A group C member who has at least two years of continuous credited service in group C is eligible to receive credited service in group C, on application in a manner determined by the pension board, for all periods of service before the group C member's effective date of participation in group C in which the member has otherwise met the definition of "executive official" under Subsection (b)(3) of this section, provided that:

(1) if the service was in group A, the group C member may not have received a refund of contributions unless the group C member repaid refunded contributions under Sections 7(c), (d), (e), and (f)

of this Act or Section 5(j), Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes); and

(2) if service was in group B, the group C member must elect, at a time and in a manner determined by the pension board, to purchase the service into group C and must purchase the service in the same manner as the service would be purchased into group A under Section 5(f) of this Act.

(j) If payments under Subsection (i)(1) of this section are not timely made, the group C member may not receive credited service in group C under this section for group A service. If required payments under Subsection (i)(2) of this section are not timely made, the group C member may not receive credited service in group C under this section for group B service.

(k) Notwithstanding any other law, including Subsection (b)(3) of this section, Subsections (a) through (j) of this section do not apply to any employee on or after January 1, 2005. An employee who meets the definition of "executive official" under Subsection (b)(3) of this section is a group A member beginning January 1, 2005, for credited service earned on or after January 1, 2005, or a member of the applicable group under Section 5 of this Act. This subsection does not affect:

(1) any credited service or benefit percentage accrued in group C before January 1, 2005;

(2) any group C benefit that a deferred participant or retiree is eligible to receive that was earned before January 1, 2005; or

(3) the terms of any obligation to purchase service credit or convert service credit to group C that was entered into before January 1, 2005.

(l) A group C member who terminates employment before January 1, 2005, is subject to the retirement eligibility requirements in effect on the date of the member's termination from employment. A group C member who becomes a group A member under Subsection (k) of this section on January 1, 2005, is subject to the retirement eligibility requirements under Section 10 of this Act.

Sec. 7. SERVICE; CREDITED SERVICE. (a) Notwithstanding any other provision of this Act, duplication of service or credited service in group A, B, C, or D of the pension system or in the pension system and any other defined benefit pension plan to which

the city contributes is prohibited.

(b) A member's service begins on the date the member first performs services for the city, the pension system, or the predecessor system as an eligible employee on or after September 1, 1943. A member's period of service terminates on the earliest of the date of the member's:

(1) retirement;

(2) death;

(3) resignation;

(4) discharge; or

(5) other cessation of actual performance of services for the city or for the pension system, other than an authorized absence.

(c) Except as provided by Section 12 of this Act, a member may pay into the pension fund and obtain credit for any service with the city or the pension system for which credit is otherwise allowable under this Act, except that:

(1) no required contributions were made by the member for the service; or

(2) refunded contributions attributable to the service have not been subsequently repaid.

(d) To establish service described by Subsection (c) of this section that occurred before September 1, 1999, the member shall pay a sum computed at the rate of four percent of the member's salary, and the city shall pay into the pension fund an amount equal to 18 percent of that salary for the same period.

(e) To establish service described by Subsection (c) of this section that occurred on or after September 1, 1999, the member shall pay a sum computed by multiplying the member's salary during the service by the rate established for member contributions under Section 8 of this Act, and the city shall pay into the pension fund an amount equal to the rate established for city contributions under Section 8A of this Act.

(f) In addition to the amounts to be paid by the member under Subsection (d) or (e) of this section, the member shall also pay interest on those amounts at the current assumed rate of return per year, not compounded, from the date the contributions would have been deducted, if made, or from the date contributions were refunded to the date of repayment of those contributions into the pension fund.

(g) Before the year 2017 effective date, if a group B or group D member separates from service before completing five years of

credited service, the member's service credit is canceled at the time of separation. If the member is reemployed by the city in a position covered by the pension system before the first anniversary of the date of separation, all credit for previous service is restored. Any member whose service credit is canceled under this subsection and who is reemployed by the city in a position covered by the pension system after the first anniversary of the date of separation receives one year of previous service credit in group B or group D, as applicable, for each full year of subsequent service up to the amount of the previous service that was canceled.

(g-1) On or after the year 2017 effective date, if a group B or group D member who has made required member contributions separates from service before completing five years of credited service, the member's service credit is canceled at the time of separation and the member is eligible to receive a refund of required member contributions as provided by Section 17 of this Act. If the member is reemployed before the first anniversary of the date of separation:

(1) subject to Subdivision (2) of this subsection, all credit for previous service for which no member contributions were required is restored, along with credit for previous service for which the member did not receive a refund of contributions; and

(2) if the member's service credit is canceled under this subsection, the member is eligible to reinstate the canceled credited service by paying the pension system the refund amount, if any, plus interest on those amounts at the current assumed rate of return per year, not compounded, from the date contributions were refunded to the date of repayment of those contributions to the pension fund.

(g-2) For purposes of Subsection (g-1)(2) of this section, for any canceled service for which contributions were not required, the member receives one year of previous service credit in group B or group D, as appropriate, for each full year of subsequent service up to the amount of the previous service that was canceled.

(h) A group B member who was a group A member before September 1, 1981, and who was eligible to purchase credit for previous service under Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), may purchase the service credit in group B by paying into the pension fund an amount equal to the assumed rate of return per year, not compounded, on any contributions previously withdrawn for the period from the date of withdrawal to the date of purchase.

(i) Under rules and procedures adopted by the pension board, a group D member may effectuate a direct trustee-to-trustee transfer from a qualifying code Section 457(b) plan to the pension system to purchase an increased or enhanced benefit in accordance with the provisions of code Sections 415(n) and 457(e)(17) of the Internal Revenue Code of 1986. The amount transferred under this subsection shall be held by the pension system and the pension system may not separately account for the amount. The pension board by rule shall determine the additional benefit that a member is entitled to based on a transfer under this subsection.

(j) For purposes of this subsection and Subsection (k) of this section, "furlough time" means the number of days a person has been furloughed. A person who has been voluntarily or involuntarily furloughed shall receive credited service for each day that the person has been furloughed, provided that:

(1) the pension system receives all required city contributions and member contributions for the credited service attributable to the furlough time for the pay period in which the furlough occurs, based on the regular salary that each furloughed member would have received if the member had worked during the furlough time;

(2) the member may receive not more than 10 days of credited service in a fiscal year for furlough time; and

(3) credited service for furlough time may not be used to meet the five-year requirement under Section 10(b) of this Act for eligibility for a benefit.

(k) For purposes of Subsection (j) of this section, the city shall establish a unique pay code for furlough time to provide for timely payment of city contributions and member contributions for furlough time and to allow the pension system to identify furlough time for each furloughed employee.

(l) Notwithstanding any provision of this section, the interest rate on any service purchase shall be the then current assumed rate of return, not compounded.

Sec. 8. MEMBER CONTRIBUTIONS. (a) Subject to adjustments authorized under Section 8E or 8F of this Act, beginning on the year 2017 effective date, each member of the pension system shall make biweekly contributions during employment in an amount determined in accordance with this section. The contributions shall be deducted by the employer from the salary of each member and paid to the pension

system for deposit in the pension fund. Member contributions under this section shall be made as follows:

(1) each group A member shall contribute:

(A) seven percent of the member's salary beginning with the member's first full biweekly pay period that occurs on or after the year 2017 effective date; and

(B) a total of eight percent of the member's salary beginning with the member's first full biweekly pay period for the member that occurs on or after July 1, 2018;

(2) each group B member shall contribute:

(A) two percent of the member's salary beginning with the member's first full biweekly pay period that occurs on or after the year 2017 effective date; and

(B) a total of four percent of the member's salary beginning with the member's first full biweekly pay period for the member that occurs on or after July 1, 2018; and

(3) each group D member shall contribute two percent of the member's salary beginning with the member's first full biweekly pay period that occurs on or after the year 2017 effective date.

(b) This section does not increase or decrease the contribution obligation of any member that arose before the year 2017 effective date or give rise to any claim for a refund for any contributions made before that date.

(c) The employer shall pick up the contributions required of members by Subsection (a) of this section and contributions required of group D members under Section 10A(a) of this Act as soon as reasonably practicable under applicable rules for all salaries earned by members after the year 2017 effective date and by January 1, 2018, for contributions required by Section 10A(a) of this Act. The city shall pay the pickup contributions to the pension system from the same source of funds that is used for paying salaries to the members. The pickup contributions are in lieu of contributions by members. The city may pick up those contributions by a deduction from each member's salary equal to the amount of the member's contributions picked up by the city. Members may not choose to receive the contributed amounts directly instead of having the contributed amounts paid by the city to the pension system. An accounting of member contributions picked up by the employer shall be maintained, and the contributions shall be treated for all other purposes as if the amount were a part of the member's salary and had been deducted

under this section. Contributions picked up under this subsection shall be treated as employer contributions in determining tax treatment of the amounts under the Internal Revenue Code of 1986, as amended.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.24, eff. July 1, 2017.

Sec. 8A. CITY CONTRIBUTIONS. (a) The city shall make contributions to the pension system for deposit into the pension fund as provided by this section and Section 8B, 8C, 8E, or 8F of this Act, as applicable. The city shall contribute:

(1) beginning with the year 2017 effective date and ending with the fiscal year ending June 30, 2018, an amount equal to the sum of:

(A) the city contribution rate, as determined in the initial risk sharing valuation study conducted under Section 8C of this Act, multiplied by the pensionable payroll for the fiscal year; and

(B) the city contribution amount for the fiscal year; and

(2) for each fiscal year after the fiscal year ending June 30, 2018, an amount equal to the sum of:

(A) the city contribution rate, as determined in a subsequent risk sharing valuation study conducted under Section 8B of this Act and adjusted under Section 8E or 8F of this Act, as applicable, multiplied by the pensionable payroll for the applicable fiscal year; and

(B) except as provided by Subsection (e) of this section, the city contribution amount for the applicable fiscal year.

(b) Except by written agreement between the city and the pension board under Section 3(n) of this Act providing for an earlier contribution date, at least biweekly, the city shall make the contributions required by Subsection (a) of this section by depositing with the pension system an amount equal to the sum of:

(1) the city contribution rate multiplied by the pensionable payroll for the biweekly period; and

(2) the city contribution amount for the applicable fiscal year divided by 26.

(c) With respect to each fiscal year:

(1) the first contribution by the city under this section for the fiscal year shall be made not later than the date payment is

made to employees for their first full biweekly pay period beginning on or after the first day of the fiscal year; and

(2) the final contribution by the city under this section for the fiscal year shall be made not later than the date payment is made to employees for the final biweekly pay period of the fiscal year.

(d) In addition to the amounts required under this section, the city may at any time contribute additional amounts to the pension system for deposit in the pension fund by entering into a written agreement with the pension board in accordance with Section 3(n) of this Act.

(e) If, in any given fiscal year, the funded ratio is greater than or equal to 100 percent, the city contribution under this section may no longer include the city contribution amount.

(f) Contributions shall be made under this section by the city to the pension system in order to be credited against any amortization schedule of payments due to the pension system under this Act.

(g) Subsection (f) of this section does not affect the exclusion of contribution amounts under Subsection (e) of this section or changes to an amortization schedule of a liability layer under Section 8B(a)(7)(F), 8C(i)-(j), or 8E(c)(3)-(4) of this Act.

(h) Notwithstanding any other law and except for the pension obligation bond assumed under Section 8C(d)(2) of this Act, the city may not issue a pension obligation bond to fund the city contribution rate under Subsection (a)(1)(A) or (a)(2)(A) of this section or the city contribution amount under Subsection (a)(1)(B) or (a)(2)(B) of this section.

Sec. 8B. RISK SHARING VALUATION STUDIES. (a) The pension system and the city shall separately cause their respective actuaries to prepare a risk sharing valuation study in accordance with this section and actuarial standards of practice. A risk sharing valuation study must:

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

(2) be included in the annual valuation study prepared under Section 2B of this Act;

(3) calculate the unfunded actuarial accrued liability of the pension system;

(4) be based on actuarial data provided by the pension

system actuary or, if actuarial data is not provided, on estimates of actuarial data;

(5) estimate the city contribution rate and the city contribution amount, taking into account any adjustments required under Section 8E or 8F of this Act for all applicable prior fiscal years;

(6) detail the city contribution rate and the city contribution amount, taking into account any adjustments required under Section 8E or 8F of this Act for all applicable prior fiscal years;

(7) subject to Subsection (g) of this section, be based on the following assumptions and methods that are consistent with actuarial standards of practice:

(A) an ultimate entry age normal actuarial method;

(B) for purposes of determining the actuarial value of assets:

(i) except as provided by Subparagraph (ii) of this paragraph and Section 8E(c)(1) or 8F(c)(1) of this Act, an asset smoothing method recognizing actuarial losses and gains over a five-year period applied prospectively beginning on the year 2017 effective date; and

(ii) for the initial risk sharing valuation study prepared under Section 8C of this Act, a marked-to-market method applied as of June 30, 2016;

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

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

(E) each liability loss layer amortized over a period of 30 years from the first day of the fiscal 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 from July 1, 2016, for a 30-year period beginning July 1, 2017;

(F) the amortization period for each liability gain layer being:

(i) 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 fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability gain layer is first recognized;

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

(H) the assumed rate of return, subject to adjustment under Section 8E(c)(5) of this Act or, if Section 8C(g) of this Act applies, adjustment in accordance with a written agreement entered into under Section 3(n) of this Act, except that the assumed rate of return may not exceed seven percent per annum;

(I) the price inflation assumption as of the most recent actuarial experience study, which may be reset by the pension board by plus or minus 50 basis points based on that actuarial experience study;

(J) projected salary increases and payroll growth rate set in consultation with the city's finance director;

(K) payroll for purposes of determining the corridor midpoint, city contribution rate, and city contribution amount must be projected using the annual payroll growth rate assumption, which for purposes of preparing any amortization schedule may not exceed three percent; and

(L) the city contribution rate calculated without inclusion of the legacy liability; and

(8) be revised and restated, if appropriate, not later than:

(A) the date required by a written agreement entered into between the city and the pension board; or

(B) the 30th day after the date required action is taken by the pension board under Section 8E or 8F of this Act to reflect any changes required by either section.

(b) As soon as practicable after the end of a fiscal year, the pension system actuary at the direction of the pension system and the city actuary at the direction of the city shall separately prepare a proposed risk sharing valuation study based on the fiscal year that just ended.

(c) Not later than October 31 following the end of the fiscal

year, the pension system shall provide to the city actuary, under a confidentiality agreement with the pension board in which the city actuary agrees to comply with the confidentiality provisions of Section 8G of this Act, the actuarial data described by Subsection (a)(4) of this section.

(d) Not later than the 150th day after the last day of the fiscal year:

(1) the pension system actuary, at the direction of the pension system, shall provide the proposed risk sharing valuation study prepared by the pension system actuary under Subsection (b) of this section to the city actuary; and

(2) the city actuary, at the direction of the city, shall provide the proposed risk sharing valuation study prepared by the city actuary under Subsection (b) of this section to the pension system actuary.

(e) Each actuary described by Subsection (d) of this section may provide copies of the proposed risk sharing valuation studies to the city or the pension system as appropriate.

(f) If, after exchanging proposed risk sharing valuation studies under Subsection (d) of this section, it is found that the difference between the estimated city contribution rate recommended in the proposed risk sharing valuation study prepared by the pension system actuary and the estimated city contribution rate recommended in the proposed risk sharing valuation study prepared by the city actuary for the corresponding fiscal year is:

(1) less than or equal to two percentage points, the estimated city contribution rate recommended by the pension system actuary will be the estimated city contribution rate for purposes of Subsection (a)(5) of this section, and the proposed risk sharing valuation study prepared for the pension system is considered to be the final risk sharing valuation study for the fiscal year for the purposes of this Act; or

(2) greater than two percentage points, the city actuary and the pension system actuary shall have 20 business days to reconcile the difference, provided that without the mutual agreement of both actuaries, the difference in the estimated city contribution rate recommended by the city actuary and the estimated city contribution rate recommended by the pension system actuary may not be further increased and:

(A) if, as a result of reconciliation efforts under

this subdivision, the difference is reduced to less than or equal to two percentage points:

(i) the estimated city contribution rate proposed under the reconciliation by the pension system actuary will be the estimated city contribution rate for purposes of Subsection (a)(5) of this section; and

(ii) the pension system's risk sharing valuation study is considered to be the final risk sharing valuation study for the fiscal year for the purposes of this Act; or

(B) if, after 20 business days, the pension system actuary and the city actuary are not able to reach a reconciliation that reduces the difference to an amount less than or equal to two percentage points:

(i) the city actuary at the direction of the city and the pension system actuary at the direction of the pension system each shall deliver to the finance director of the city and the executive director of the pension system a final risk sharing valuation study with any agreed-to changes, marked as the final risk sharing valuation study for each actuary; and

(ii) not later than the 90th day before the first day of the next fiscal year, the finance director and the executive director shall execute a joint addendum to the final risk sharing valuation study received under Subparagraph (i) of this paragraph that is a part of the final risk sharing valuation study for the fiscal year for all purposes and reflects the arithmetic average of the estimated city contribution rates for the fiscal year stated by the city actuary and the pension system actuary in the final risk sharing valuation study for purposes of Subsection (a)(5) of this section, and for reporting purposes the pension system may treat the pension system actuary's risk sharing valuation study with the addendum as the final risk sharing valuation study.

(g) The assumptions and methods used and the types of actuarial data and financial information used to prepare the initial risk sharing valuation study under Section 8C of this Act shall be used to prepare each subsequent risk sharing valuation study under this section, unless changed based on the actuarial experience study conducted under Section 8D of this Act.

(h) The actuarial data provided under Subsection (a)(4) of this section may not include the identifying information of individual members.

Sec. 8C. INITIAL RISK SHARING VALUATION STUDIES; CORRIDOR MIDPOINT AND CITY CONTRIBUTION AMOUNTS. (a) The pension system and the city shall separately cause their respective actuaries to prepare an initial risk sharing valuation study that is dated as of July 1, 2016, in accordance with this section. An initial risk sharing valuation study must:

(1) except as otherwise provided by this section, be prepared in accordance with Section 8B of this Act, and for purposes of Section 8B(a)(4) of this Act, be based on actuarial data as of June 30, 2016, or, if actuarial data is not provided, on estimates of actuarial data;

(2) project the corridor midpoint for 31 fiscal years beginning with the fiscal year beginning July 1, 2017; and

(3) subject to Subsections (i) and (j) of this section, include a schedule of city contribution amounts for 30 fiscal years beginning with the fiscal year beginning July 1, 2017.

(b) If the initial risk sharing valuation study has not been prepared consistent with this section before the year 2017 effective date, as soon as practicable after the year 2017 effective date:

(1) the pension system shall provide to the city actuary under a confidentiality agreement the necessary actuarial data used by the pension system actuary to prepare the proposed initial risk sharing valuation study; and

(2) not later than the 30th day after the date the city's actuary receives the actuarial data:

(A) the city actuary, at the direction of the city, shall provide a proposed initial risk sharing valuation study to the pension system actuary; and

(B) the pension system actuary, at the direction of the pension system, shall provide a proposed initial risk sharing valuation study to the city actuary.

(c) If, after exchanging proposed initial risk sharing valuation studies under Subsection (b)(2) of this section, it is determined that the difference between the estimated total city contribution divided by the pensionable payroll for any fiscal year in the proposed initial risk sharing valuation study prepared by the pension system actuary and in the proposed initial risk sharing valuation study prepared by the city actuary is:

(1) less than or equal to two percentage points, the estimated city contribution rate and the estimated city contribution

amount for that fiscal year recommended by the pension system actuary will be the estimated city contribution rate and the estimated city contribution amount, as applicable, for purposes of Section 8B(a)(5) of this Act; or

(2) greater than two percentage points, the city actuary and the pension system actuary shall have 20 business days to reconcile the difference and:

(A) if, as a result of reconciliation efforts under this subdivision, the difference in any fiscal year is reduced to less than or equal to two percentage points, the city contribution rate and the city contribution amount recommended by the pension system actuary for that fiscal year will be the estimated city contribution rate and the estimated city contribution amount, as applicable, for purposes of Section 8B(a)(5) of this Act; or

(B) if, after 20 business days, the city actuary and the pension system actuary are not able to reach a reconciliation that reduces the difference to an amount less than or equal to two percentage points for any fiscal year:

(i) the city actuary at the direction of the city and the pension system actuary at the direction of the pension system each shall deliver to the finance director of the city and the executive director of the pension system a final initial risk sharing valuation study with any agreed-to changes, marked as the final initial risk sharing valuation study for each actuary; and

(ii) the finance director and the executive director shall execute a joint addendum to the final initial risk sharing valuation study that is a part of each final initial risk sharing valuation study for all purposes and that reflects the arithmetic average of the estimated city contribution rate and the estimated city contribution amount for each fiscal year in which the difference was greater than two percentage points for purposes of Section 8B(a)(5) of this Act, and for reporting purposes the pension system may treat the pension system actuary's initial risk sharing valuation study with the addendum as the final initial risk sharing valuation study.

(d) In preparing the initial risk sharing valuation study, the city actuary and pension system actuary shall:

(1) adjust the actuarial value of assets to be equal to the market value of assets as of July 1, 2016;

(2) assume the issuance of planned pension obligation bonds

by December 31, 2017, in accordance with Subsection (j)(2) of this section; and

(3) assume benefit and contribution changes under this Act as of the year 2017 effective date.

(e) If the city actuary does not prepare an initial risk sharing valuation study for purposes of this section, the pension system actuary's initial risk sharing valuation study will be used as the final risk sharing valuation study for purposes of this Act unless the city did not prepare a proposed initial risk sharing valuation study because the pension system actuary did not provide the necessary actuarial data in a timely manner. If the city did not prepare a proposed initial risk sharing valuation study because the pension system actuary did not provide the necessary actuarial data in a timely manner, the city actuary shall have 60 days to prepare the proposed initial risk sharing valuation study on receipt of the necessary information.

(f) If the pension system actuary does not prepare a proposed initial risk sharing valuation study for purposes of this section, the proposed initial risk sharing valuation study prepared by the city actuary will be the final risk sharing valuation study for purposes of this Act.

(g) The city and the pension board may agree on a written transition plan for resetting the corridor midpoint:

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

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

(h) If the city and the pension board have not entered into an agreement described by Subsection (g) of this section in a given fiscal year, the corridor midpoint will be the corridor midpoint determined for the 31st fiscal year in the initial risk sharing valuation study prepared in accordance with this section.

(i) If the city makes a contribution to the pension system of at least $5 million more than the amount that would be required by Section 8A(a) of this Act, a liability gain layer with the same remaining amortization period as the legacy liability is created. In each subsequent risk sharing valuation study until the end of that amortization period, the city contribution amount must be decreased by the amortized amount in each fiscal year covered by the liability gain layer.

(j) Notwithstanding any other provision of this Act, including Section 8H of this Act:

(1) if the city fails to deliver the proceeds of pension obligation bonds totaling $250 million on or before March 31, 2018, the pension board shall have 30 days from March 31, 2018, to rescind, prospectively, any or all benefit changes made effective under S.B. No. 2190, Acts of the 85th Legislature, Regular Session, 2017, as of the year 2017 effective date, or to reestablish the deadline for the delivery of pension obligation bond proceeds, reserving the right to rescind the benefit changes authorized by this subdivision if the bond proceeds are not delivered by the reestablished deadline; and

(2) subject to Subsection (k) of this section, if the pension board rescinds benefit changes under Subdivision (1) of this subsection or pension obligation bond proceeds are not delivered on or before December 31, 2017, the initial risk sharing valuation study shall be prepared again and restated without assuming the delivery of the pension obligation bond proceeds, the later delivery of pension obligation bond proceeds, or the rescinded benefit changes, as applicable, including a reamortization of the city contribution amount for the amortization period remaining for the legacy liability, and the resulting city contribution rate and city contribution amount will become effective in the fiscal year following the completion of the restated initial risk sharing valuation study.

(k) The restated initial risk sharing valuation study required under Subsection (j)(2) of this section must be completed at least 30 days before the start of the fiscal year:

(1) ending June 30, 2019, if the pension board does not reestablish the deadline under Subsection (j)(1) of this section; or

(2) immediately following the reestablished deadline, if the pension board reestablishes the deadline under Subsection (j)(1) of this section and the city fails to deliver the pension obligation bond proceeds described by Subsection (j)(1) of this section by the reestablished deadline.

Sec. 8D. ACTUARIAL EXPERIENCE STUDIES. (a) At least once every four years, the pension system actuary, at the direction of the pension system, shall conduct an actuarial experience study in accordance with actuarial standards of practice. The actuarial experience study required by this subsection must be completed not later than September 30 of the year in which the study is required to

be conducted.

(b) Except as otherwise expressly provided by Sections 8B(a)(7)(A)-(I) of this Act, actuarial assumptions and methods used in the preparation of a risk sharing valuation study, other than the initial risk sharing valuation study, shall be based on the results of the most recent actuarial experience study.

(c) Not later than the 180th day before the date the pension board may consider adopting any assumptions and methods for purposes of Section 8B of this Act, the pension system shall provide the city actuary with a substantially final draft of the pension system's actuarial experience study, including:

(1) all assumptions and methods recommended by the pension system actuary; and

(2) summaries of the reconciled actuarial data used in creation of the actuarial experience study.

(d) Not later than the 60th day after the date the city receives the final draft of the pension system's actuarial experience study under Subsection (c) of this section, the city actuary and pension system actuary may communicate concerning the assumptions and methods used in the actuarial experience study. During the period prescribed by this subsection, the pension system actuary may modify the recommended assumptions in the draft actuarial experience study to reflect any changes to assumptions and methods to which the pension system actuary and the city actuary agree.

(e) At the city actuary's written request, the pension system shall provide additional actuarial data used by the pension system actuary to prepare the draft actuarial experience study, provided that confidential data may only be provided subject to a confidentiality agreement entered into between the pension system and the city actuary.

(f) The city actuary, at the direction of the city, shall provide in writing to the pension system actuary and the pension system:

(1) any assumptions and methods recommended by the city actuary that differ from the assumptions and methods recommended by the pension system actuary; and

(2) the city actuary's rationale for each method or assumption the actuary recommends and determines to be consistent with standards adopted by the Actuarial Standards Board.

(g) Not later than the 30th day after the date the pension

system actuary receives the city actuary's written recommended assumptions and methods and rationale under Subsection (f) of this section, the pension system shall provide a written response to the city identifying any assumption or method recommended by the city actuary that the pension system does not accept. If any assumption or method is not accepted, the pension system shall recommend to the city the names of three independent actuaries for purposes of this section.

(h) An actuary may only be recommended, selected, or engaged by the pension system as an independent actuary under this section if the person:

(1) is not already engaged by the city, the pension system, or any other pension system or fund authorized under Article 6243e.2(1) or 6243g-4, Revised Statutes, to provide actuarial services to the city, the pension system, or another pension system or fund referenced in this subdivision;

(2) is a member of the American Academy of Actuaries; and

(3) has at least five years of experience as an actuary working with one or more public retirement systems with assets in excess of $1 billion.

(i) Not later than the 20th day after the date the city receives the list of three independent actuaries under Subsection (g) of this section, the city shall identify and the pension system shall hire one of the listed independent actuaries on terms acceptable to the city and the pension system to perform a scope of work acceptable to the city and the pension system. The city and the pension system each shall pay 50 percent of the cost of the independent actuary engaged under this subsection. The city shall be provided the opportunity to participate in any communications between the independent actuary and the pension system concerning the engagement, engagement terms, or performance of the terms of the engagement.

(j) The independent actuary engaged under Subsection (i) of this section shall receive on request from the city or the pension system:

(1) the pension system's draft actuarial experience study, including all assumptions and methods recommended by the pension system actuary;

(2) summaries of the reconciled actuarial data used to prepare the draft actuarial experience study;

(3) the city actuary's specific recommended assumptions and

methods together with the city actuary's written rationale for each recommendation;

(4) the pension system actuary's written rationale for its recommendations; and

(5) if requested by the independent actuary and subject to a confidentiality agreement between the pension system and the independent actuary, additional confidential actuarial data.

(k) Not later than the 30th day after the date the independent actuary receives all the requested information under Subsection (j) of this section, the independent actuary shall advise the pension system and the city whether it agrees with the assumption or method recommended by the city actuary or the corresponding method or assumption recommended by the pension system actuary, together with the independent actuary's rationale for making the determination. During the period prescribed by this subsection, the independent actuary may discuss recommendations in simultaneous consultation with the pension system actuary and the city actuary.

(l) The pension system and the city may not seek any information from any prospective independent actuary about possible outcomes of the independent actuary's review.

(m) If an independent actuary has questions or concerns regarding an engagement entered into under this section, the independent actuary shall simultaneously consult with both the city actuary and the pension system actuary regarding the questions or concerns. This subsection does not limit the pension system's authorization to take appropriate steps to complete the engagement of the independent actuary on terms acceptable to both the pension system and the city or to enter into a confidentiality agreement with the independent actuary, if needed.

(n) If the pension board does not adopt an assumption or method recommended by the city actuary to which the independent actuary agrees, or recommended by the pension system actuary, the city actuary is authorized to use that recommended assumption or method in connection with preparation of a subsequent risk sharing valuation study under Section 8B of this Act until the risk sharing valuation study following the next actuarial experience study is prepared.

Sec. 8E. CITY CONTRIBUTION RATE WHEN ESTIMATED CITY CONTRIBUTION RATE LOWER THAN CORRIDOR MIDPOINT; AUTHORIZATION FOR CERTAIN ADJUSTMENTS. (a) This section governs the determination of the city contribution rate applicable in a fiscal year if the

estimated city contribution rate is lower than the corridor midpoint.

(b) If the funded ratio is:

(1) less than 90 percent, the city contribution rate for the fiscal year equals the corridor midpoint; or

(2) equal to or greater than 90 percent and the city contribution rate is:

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

(B) except as provided by Subsection (e) of this section, less than the minimum contribution rate for the corresponding fiscal year, the city contribution rate for the fiscal year equals the minimum contribution rate achieved in accordance with Subsection (c) of this section.

(c) For purposes of Subsection (b)(2)(B) of this section, the following adjustments shall be applied sequentially to the extent required to increase the estimated city contribution rate to equal the minimum contribution rate:

(1) first, adjust the actuarial value of assets equal to the current market value of assets, if making the adjustment causes the city contribution rate to increase;

(2) second, under a written agreement between the city and the pension board under Section 3(n) of this Act entered into not later than the 30th day before the first day of the next fiscal year, prospectively restore all or part of any benefit reductions or reduce increased employee contributions, in each case made after the year 2017 effective date;

(3) third, accelerate the payoff year of the legacy liability by offsetting the remaining legacy liability by the amount of the new liability loss layer, provided that during the accelerated period the city will continue to pay the city contribution amount as scheduled in the initial risk sharing valuation study, subject to Section 8C(i) or (j) of this Act;

(4) fourth, accelerate the payoff year of existing liability loss layers, excluding the legacy liability, by accelerating the oldest liability loss layers first, to an amortization period of not less than 20 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability loss layer is first recognized; and

(5) fifth, under a written agreement between the city and the pension board under Section 3(n) of this Act entered into not later than the 30th day before the first day of the next fiscal year, the city and the pension board may agree to reduce the assumed rate of return.

(d) If the funded ratio is:

(1) equal to or greater than 100 percent:

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

(B) the city contribution amount may no longer be included in the city contribution under Section 8A of this Act; and

(C) the city and the pension system may mutually agree to change assumptions in a written agreement entered into between the city and the pension board under Section 3(n) of this Act; and

(2) greater than 100 percent in a written agreement between the city and the pension system entered into under Section 3(n) of this Act, the pension system may reduce member contributions or increase pension benefits if as a result of the action:

(A) the funded ratio is not less than 100 percent; and

(B) the city contribution rate is not more than the minimum contribution rate.

(e) Except as provided by Subsection (f) of this section, if an agreement under Subsection (d) of this section is not reached on or before the 30th day before the first day of the next fiscal year, before the first day of the next fiscal year, the pension board shall reduce member contributions and implement or increase cost-of-living adjustments, but only to the extent that the city contribution rate is set at or below the minimum contribution rate and the funded ratio is not less than 100 percent.

(f) If any member contribution reduction or benefit increase under Subsection (e) of this section has occurred within the previous three fiscal years, the pension board may not make additional adjustments to benefits, and the city contribution rate must be set to equal the minimum contribution rate.

Sec. 8F. CITY CONTRIBUTION RATE WHEN ESTIMATED CITY CONTRIBUTION RATE EQUAL TO OR GREATER THAN CORRIDOR MIDPOINT; AUTHORIZATION FOR CERTAIN ADJUSTMENTS. (a) This section governs the determination of the city contribution rate in a fiscal year when the estimated city contribution rate is equal to or greater than the corridor midpoint.

(b) If the estimated city contribution rate is:

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

(2) except as provided by Subsection (d) or (f) of this section, greater than the maximum contribution rate for the corresponding fiscal year, the city contribution rate equals the corridor midpoint achieved in accordance with Subsection (c) of this section.

(c) For purposes of Subsection (b)(2) of this section, the following adjustments shall be applied sequentially to the extent required to decrease the estimated city contribution rate to equal the corridor midpoint:

(1) first, adjust the actuarial value of assets to the current market value of assets, if making the adjustment causes the city contribution rate to decrease;

(2) second, if the payoff year of the legacy liability was accelerated under Section 8E(c) of this Act:

(A) extend the payoff year of the legacy liability by increasing the legacy liability by the amount of the new liability gain layer to a maximum amount; and

(B) during the extended period provided by Paragraph (A) of this subdivision, the city shall continue to pay the city contribution amount for the extended period in accordance with the schedule included in the initial risk sharing valuation study, subject to Section 8C(i) or (j) of this Act; and

(3) third, if the payoff year of a liability loss layer other than the legacy liability was previously accelerated under Section 8E(c) of this Act, extend the payoff year of existing liability loss layers, excluding the legacy liability, by extending the most recent loss layers first, to a payoff year not later than 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability loss layer is first recognized.

(d) If the city contribution rate after adjustment under Subsection (c) of this section is greater than the third quarter line rate, the city contribution rate equals the third quarter line rate. To the extent necessary to comply with this subsection, the city and the pension board shall enter into a written agreement under Section 3(n) of this Act to increase member contributions and make other

benefit or plan changes not otherwise prohibited by applicable federal law or regulations.

(e) Gains resulting from adjustments made as the result of a written agreement between the city and the pension board under Subsection (d) of this section may not be used as a direct offset against the city contribution amount in any fiscal year.

(f) If an agreement under Subsection (d) of this section is not reached on or before the 30th day before the first day of the next fiscal year, before the start of the next fiscal year to which the city contribution rate would apply, the pension board, to the extent necessary to set the city contribution rate equal to the third quarter line rate, shall:

(1) increase member contributions; and

(2) decrease cost-of-living adjustments.

(g) If the city contribution rate remains greater than the corridor midpoint in the third fiscal year after adjustments are made in accordance with an agreement under Subsection (d) of this section, in that fiscal year the city contribution rate equals the corridor midpoint achieved in accordance with Subsection (h) of this section.

(h) The city contribution rate must be set at the corridor midpoint under Subsection (g) of this section by:

(1) in the risk sharing valuation study for the third fiscal year described by Subsection (g) of this section, adjusting the actuarial value of assets to equal the current market value of assets, if making the adjustment causes the city contribution rate to decrease; and

(2) under a written agreement entered into between the city and the pension board under Section 3(n) of this Act:

(A) increasing member contributions; and

(B) making any other benefit or plan changes not otherwise prohibited by applicable federal law or regulations.

(i) If an agreement under Subsection (h)(2) of this section is not reached on or before the 30th day before the first day of the next fiscal year, before the start of the next fiscal year, the pension board, to the extent necessary to set the city contribution rate equal to the corridor midpoint, shall:

(1) increase member contributions; and

(2) decrease cost-of-living adjustments.

Sec. 8G. CONFIDENTIALITY. (a) The information, data, and document exchanges under Sections 8A through 8F of this Act have all

the protections afforded by applicable law and are expressly exempt from the disclosure requirements under Chapter 552, Government Code, except as may be agreed to by the city and pension system in a written agreement under Section 3(n) of this Act.

(b) Subsection (a) of this section does not apply to:

(1) a proposed risk sharing valuation study prepared by the pension system actuary and provided to the city actuary or prepared by the city actuary and provided to the pension system actuary under Section 8B(d) or 8C(b)(2) of this Act; or

(2) a final risk sharing valuation study prepared under Section 8B or 8C of this Act.

(c) A risk sharing valuation study prepared by either the city actuary or the pension system actuary under Sections 8A through 8F of this Act may not:

(1) include information in a form that includes identifiable information relating to a specific individual; or

(2) provide confidential or private information regarding specific individuals or be grouped in a manner that allows confidential or private information regarding a specific individual to be discerned.

Sec. 8H. UNILATERAL DECISIONS AND ACTIONS PROHIBITED. No unilateral decision or action by the pension board is binding on the city and no unilateral decision or action by the city is binding on the pension system with respect to the application of Sections 8A through 8F of this Act unless expressly provided by a provision of those sections. Nothing in this section is intended to limit the powers or authority of the pension board.

Sec. 8I. STATE PENSION REVIEW BOARD; REPORT. (a) After preparing a final risk sharing valuation study under Section 8B or 8C of this Act, the pension system and the city shall jointly submit a copy of the study or studies, as appropriate, to the State Pension Review Board for a determination that the pension system and city are in compliance with this Act.

(b) Not later than the 30th day after the date an action is taken under Section 8E or 8F of this Act, the pension system shall submit a report to the State Pension Review Board regarding any actions taken under those sections.

(c) The State Pension Review Board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the legislative committees having principal jurisdiction over

legislation governing public retirement systems if the State Pension Review Board determines the pension system or the city is not in compliance with Sections 8A through 8H of this Act.

Sec. 9. CONTRIBUTION REFUNDS. (a) If any member's employment by the city or the pension system is terminated for other than a service disability before the completion of five years of service with the city or the pension system, the member is not eligible to receive a pension.

(b) The system shall refund to the terminated member the amount paid by the member into the pension fund through salary deduction or other authorized contributions, without interest, as provided by Section 17 of this Act.

(c) If a member dies and there are no eligible survivors to receive the allowance provided for in Section 14 of this Act, the member's spouse or, if there is no spouse, the member's estate shall receive the refund amount.

Sec. 10. NORMAL RETIREMENT PENSION. (a) For purposes of this section, a pension under this section is referred to as a normal retirement pension.

(b) A group A or group B member of the pension system who terminates employment is eligible for a normal retirement pension beginning on the member's effective retirement date after the date the member completes at least five years of credited service and attains either:

(1) 62 years of age; or

(2) a combination of years of age and years of credited service, including parts of years, the sum of which equals or is greater than the number:

(A) 75, provided the member is at least 50 years of age; or

(B) 70, provided the member attained a combination of years of age and years of credited service, including parts of years, the sum of which equals or is greater than the number 68 before January 1, 2005.

(c) A group C member of the pension system who terminates employment is eligible for a normal retirement pension beginning on the member's effective retirement date as provided by Section 6(e) of this Act.

(c-1) A group D member who terminates employment is eligible for a normal retirement pension beginning on the member's effective

retirement date after the date the member completes at least five years of credited service and attains 62 years of age.

(d) Subject to Section 17 of this Act, the amount of the monthly normal retirement pension payable to an eligible:

(1) group A or group B member who retires before January 1, 2005, shall be determined under the law in effect on the member's last day of credited service;

(2) group A member who retires on or after January 1, 2005, is equal to the sum of:

(A) the member's average monthly salary multiplied by the percentage rate accrued under the law in effect on December 31, 2004, for each year of the member's years of credited service in group A that is earned before January 1, 2005;

(B) the member's average monthly salary multiplied by 2.5 percent for each year of the member's years of credited service in group A during the member's first 20 years of service that is earned on or after January 1, 2005; and

(C) the member's average monthly salary multiplied by 3.25 percent for each year of credited service of the member in group A during the member's years of service in excess of the 20 years described under Paragraph (B) of this subdivision that is earned on or after January 1, 2005;

(3) group B member who retires on or after January 1, 2005, is equal to the sum of:

(A) the member's average monthly salary multiplied by the percentage rate accrued under the law in effect on December 31, 2004, for each year of the member's years of credited service in group B that is earned before January 1, 2005;

(B) the member's average monthly salary multiplied by 1.75 percent for each year of the member's years of credited service in group B during the member's first 10 years of service that is earned on or after January 1, 2005;

(C) the member's average monthly salary multiplied by two percent for each of the member's years of credited service in group B in excess of the 10 years described under Paragraph (B) of this subdivision that is earned on or after January 1, 2005; and

(D) the member's average monthly salary multiplied by 2.5 percent for each year of credited service of the member in group B during the member's years of service in excess of 20 years that is earned on or after January 1, 2005; or

(4) group D member who retires on or after January 1, 2008, is equal to the sum of:

(A) the member's average monthly salary multiplied by 1.8 percent for each year of the member's years of credited service during the member's first 25 years of service; and

(B) the member's average monthly salary multiplied by 1 percent for each year of credited service of the member in group D during the member's years of service in excess of 25 years.

(d-1) For purposes of Subsection (d) of this section, service credit is rounded to the nearest one-twelfth of a year.

(e) A group D member who terminates employment with the city or the pension system may elect to receive an early retirement pension payable as a reduced benefit if the member has attained:

(1) at least 10 years of credited service and is at least 55 years of age; or

(2) five years of credited service and a combination of years of age and years of credited service, including parts of years, the sum of which equals or is greater than the number 75.

(e-1) The amount of the early retirement pension payable to a retired group D member under Subsection (e) of this section shall be equal to the monthly normal retirement pension reduced by 0.25 percent for each month the member is less than 62 years of age at retirement.

(f) The amount of the monthly normal retirement pension payable to a retired group C member is computed as provided by Section 6 of this Act.

(g) Notwithstanding any other provision of this Act, the total normal retirement pension of a retired member with credited service in group A, group B, group C, or group D may not exceed 90 percent of the member's average monthly salary.

(h) On or after February 1, 2018, and for future payments only, pension benefits for all group A retirees and group B retirees, and for all group D retirees who terminated employment on or after the year 2017 effective date with at least five years of credited service, and survivor benefits for eligible survivors of a former member of group A or group B, or of a former member of group D who terminated employment on or after the year 2017 effective date with at least five years of credited service, shall be increased annually by the cost-of-living adjustment percentage, not compounded, for all such eligible persons receiving a pension or survivor benefit as of

January 1 of the year in which the increase is made.

(i) A member receiving a normal retirement pension is considered to have resigned and shall be removed from the regular full-time employment rolls of the city or the pension system not later than the day before the member's effective retirement date.

Sec. 10A. GROUP D MEMBER HYBRID COMPONENT. (a) On and after January 1, 2018, in addition to the group D member contributions under Section 8 of this Act, each group D member shall contribute one percent of the member's salary for each biweekly pay period beginning with the member's first full biweekly pay period after the later of January 1, 2018, or the group D member's first date of employment. The contribution required by this subsection:

(1) shall be picked up and paid in the same manner and at the same time as group D member contributions required under Section 8(a)(3) of this Act, subject to applicable rules;

(2) is separate from and in addition to the group D member contribution under Section 8(a)(3) of this Act; and

(3) is not subject to reduction or increase under Sections 8A through 8F of this Act or a refund under Section 17 of this Act.

(b) For each biweekly pay period of a group D member's service for which the group D member makes the contribution required under Subsection (a) of this section, the following amounts shall be credited to a notional account, known as a cash balance account, for the group D member:

(1) the amount of the contributions paid under Subsection (a) of this section for that biweekly pay period; and

(2) interest on the balance of the group D member's cash balance account determined by multiplying:

(A) an annual rate that is one-half the pension system's five-year investment return based on a rolling five-fiscal-year basis and net of investment expenses, with a minimum annual rate of 2.5 percent and a maximum annual rate of 7.5 percent, and divided by 26; and

(B) the amount credited to the group D member's cash balance account as of the end of the biweekly pay period.

(c) The pension system may not pay interest on amounts credited to a cash balance account but not received by the pension system under Subsection (b) of this section.

(d) On separation from service, a group D member is eligible to receive only a distribution of the contributions credited to that

group D member's cash balance account, without interest, if the group D member has attained less than one year of service while contributing to the cash balance account. If a group D member attains at least one year of service while contributing to the cash balance account, the group D member is fully vested in the accrued benefit represented by that group D member's cash balance account, including interest.

(e) In a manner and form prescribed by the pension board, a group D member who terminates employment is eligible to elect to receive the group D member's cash balance account benefit in a lump-sum payment, in substantially equal periodic payments, in a partial lump-sum payment followed by substantially equal periodic payments, or in partial payments from the group D member's cash balance account.

(f) Contributions may not be made to a group D member's cash balance account for a period that occurs after the date the group D member terminates employment, except that interest at a rate that is not greater than the rate under Subsection (b)(2) of this section, as determined by the pension board, may be credited based on the former group D member's undistributed cash balance account after the date the group D member terminates employment.

(g) On the death of a group D member or former group D member before the full distribution of the member's cash balance account, the deceased member's cash balance account shall be payable in a single lump-sum payment to:

(1) the deceased member's surviving spouse;

(2) if there is no surviving spouse, each designated beneficiary of the deceased member, designated in the manner and on a form prescribed by the pension board; or

(3) if there is no designated beneficiary, the deceased member's estate.

(h) The lump-sum payment described by Subsection (g) of this section shall be made within a reasonable time after the pension board has determined that the individual or estate is eligible for the distribution.

(i) Subject to the other provisions of this section, the pension board may adopt rules necessary to implement this section, including rules regarding the payment of the cash balance account and limitations on the timing and frequency of payments. All distributions and changes in the form of distribution must be made in

a manner and at a time that complies with the Internal Revenue Code of 1986.

Sec. 11. OPTION-ELIGIBLE PARTICIPANTS. (a) In this section, "J&S Annuity" means payment of a normal retirement pension or early retirement pension under one of the options provided by Subsection (b) of this section.

(a-1) For purposes of this section, an option-eligible participant is:

(1) a former group A or group B member who terminates employment with the city or the pension system on or after June 30, 2011, and who is eligible to receive a normal retirement pension, provided the member was not married as of the date of the member's termination of employment;

(2) a former group B member who terminated employment with the city or the predecessor system before September 1, 1997, and who is eligible to receive a normal retirement pension; or

(3) a former group D member who terminated employment with the city or the pension system and who is eligible to receive a normal retirement pension or an early retirement pension.

(a-2) The pension board, in its sole discretion, shall make determinations regarding an individual's status as an option-eligible participant.

(a-3) Before the date an option-eligible participant commences receipt of a benefit, that option-eligible participant must elect, in a manner and at a time determined by the pension board, whether to receive the participant's normal retirement pension or early retirement pension, as applicable, or to have the option-eligible participant's normal retirement pension or early retirement pension, as applicable, paid under one of the options provided by Subsection (b) of this section. The election may be revoked, in a manner and at a time established by the pension board, not later than the 60th day before the date the participant commences receipt of a benefit.

(b) The normal retirement pension or early retirement pension may be one of the following actuarially equivalent amounts:

(1) option 1: a reduced pension payable to the participant, then on the participant's death one-half of the amount of that reduced pension is payable to the participant's designated survivor, for life;

(2) option 2: a reduced pension payable to the participant, then on the participant's death that same reduced

pension is payable to the participant's designated survivor, for life; and

(3) option 3: a reduced pension payable to the participant, and if the participant dies within 10 years, the pension is paid to the participant's designated survivor for the remainder of the 10-year period beginning on the participant's benefit commencement date.

(c) If an option-eligible participant who has made the election provided by Subsection (b) of this section dies after terminating employment with at least five years of credited service but before attaining the age required to begin receiving a normal or early retirement pension, the person's designated survivor is eligible for the J&S Annuity provided by the option selected by the option-eligible participant at the time of separation from service. The benefits first become payable to an eligible designated survivor on the date the option-eligible participant would have become eligible to begin receiving a pension. If the designated survivor elects for earlier payment, in a time and manner determined by the pension board, the actuarial equivalent of that amount shall be payable at that earlier date.

(d) A survivor benefit under Subsection (c) of this section or a J&S Annuity is not payable if:

(1) except as provided by Subsection (e) of this section, an option-eligible participant does not elect one of the J&S Annuity options under Subsection (b) of this section and dies before retirement has commenced;

(2) an option-eligible participant elects a normal retirement pension or early retirement pension and dies before retirement has commenced; or

(3) an option-eligible participant dies after retirement has commenced and that option-eligible participant:

(A) elected a normal retirement pension or early retirement pension;

(B) did not make a valid election under Subsection (b) of this section; or

(C) made an election that is void.

(e) An option-eligible participant described by Subsection (a-1)(3) of this section who did not elect one of the J&S Annuity options under Subsection (b) of this section is considered to have elected a J&S Annuity option under Subsection (b)(1) of this section

and to have designated the participant's surviving spouse as the optional annuitant if the participant:

(1) was not in service with the city or the pension system at the time of the participant's death;

(2) is survived by a surviving spouse; and

(3) dies before the participant's retirement has commenced.

(f) If the option-eligible participant described by Subsection (e) of this section has no surviving spouse, a survivor benefit or J&S Annuity is not payable. If a J&S Annuity is paid under Subsection (e) of this section, a survivor benefit is not payable under this subsection or under Section 14 of this Act.

(g) If Subsection (d) of this section would otherwise apply to prohibit the payment of a survivor benefit or J&S Annuity, but there is one or more dependent children of the deceased option-eligible participant, the provisions of Section 14 of this Act control the payment of survivor benefits to the dependent child or children. The pension system may not pay both a J&S Annuity under this section and a survivor benefit under Section 14 of this Act with respect to any option-eligible participant. If a J&S Annuity is paid under Subsection (e) of this section, a survivor benefit is not payable.

(h) If an option-eligible participant has previously elected a J&S Annuity for a previous period of service, no benefits have been paid under that previous election, and the option-eligible participant terminates employment on or after January 1, 2012, the previous election is void and the option-eligible participant shall make an election under Subsection (b) of this section to apply to all periods of service.

(i) If a former group B member with service before September 1, 1997, was rehired in a covered position and converted the group B service covered by a J&S Annuity to group A service, and that member terminates employment on or after January 1, 2012, and is not an option-eligible participant at the time of the member's subsequent termination, the previous election is void and survivor benefits for an eligible survivor, if any, are payable as provided by Section 14 of this Act, provided benefits were not paid under the previous election.

(j) If an option-eligible participant who elects a J&S Annuity under this section designates the participant's spouse as a designated survivor and the marriage is later dissolved by divorce, annulment, or a declaration that the marriage is void before the

participant's retirement, the designation is void unless the participant reaffirms the designation after the marriage was dissolved.

(k) A J&S Annuity payable to a designated survivor of a retired option-eligible participant is effective on the first day of the month following the month of the option-eligible participant's death and ceases on the last day of the month of the designated survivor's death or on the last day of the month in which the survivor otherwise ceases to be eligible to receive a J&S Annuity.

Sec. 12. DEFERRED RETIREMENT OPTION PLAN. (a) In this section:

(1) "DROP" means the deferred retirement option plan established under Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), and reenacted and continued under this Act.

(2) "DROP account" means a notional account established for a DROP participant that is used solely as an accounting convention to aid in the computation of the DROP participant's DROP benefit. The DROP account may only be used for accounting purposes, and there is no actual separation of assets of the pension fund before the distribution of the DROP participant's DROP benefit.

(3) "DROP benefit" means a DROP participant's total DROP account balance at the time the DROP participant terminates employment.

(4) "DROP election date" means the date the pension system receives a member's election to participate in the DROP in the manner and form determined by the pension system and approved by the pension board.

(5) "DROP entry date" means the date a member ceases to earn service credit and begins earning credit for the member's DROP account, which is the later of the date the member is eligible to participate in the DROP, the date requested by the member, or October 1, 1997, as approved by the pension board. The DROP entry date is the first day of a month and is determined by the normal retirement eligibility requirements of this Act or of Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), as applicable, in effect on the requested DROP entry date. A member who enters DROP on or after January 1, 2005, may not have a DROP entry date that occurs before the date the pension system receives the member's request to participate in DROP.

(6) "DROP participant" means a pension system member who is participating in the DROP.

(b) A member who is eligible to receive a normal retirement pension under this Act and who is in active service with the city or the pension system, or a person who is eligible to receive a normal retirement pension under this Act and who has been separated from service for less than 30 days and has not otherwise been granted a pension or benefit, may file with the pension system an election to participate in the DROP and receive a DROP benefit under procedures established by the pension board. An election to participate in the DROP is irrevocable except as provided by Subsection (j) of this section.

(b-1) Notwithstanding Subsection (b) of this section, for DROP participation beginning on or after January 1, 2005, a member must meet the normal retirement eligibility requirements under Section 10(b) or (c) of this Act to be eligible to elect to participate in DROP. This subsection does not apply to a member who:

(1) met the eligibility requirements under Section 10(b) of this Act in effect before January 1, 2005; or

(2) before January 1, 2005, had at least five years of credited service and a combination of years of age and years of credited service, including parts of years, the sum of which equaled or was greater than 68.

(c) A member who is required to make payments to the pension system to purchase service or to convert service is eligible to participate in the DROP only to the extent that the member is eligible to participate in the DROP without regard to the service covered by the payment obligation, but must complete the obligation. If the payment obligation is not fully met, the member's participation in the DROP is determined as though the payment obligation was not entered into. A member who is participating in the DROP may not change membership from one group to another group, convert service from one group to another group, purchase service credit, or make a claim to purchase military service.

(d) Credited service and normal retirement benefits cease to accrue on the day preceding the member's DROP entry date. The period of a member's DROP participation, unless revoked as provided by Subsection (j) of this section, begins on the DROP participant's DROP entry date and ends on the date of the DROP participant's last day of active service with the city or the pension system. On the first day

of the month following the month in which the pension board approves the member's DROP election, the DROP election becomes effective and the pension board shall establish a DROP account for the DROP participant. For each month during the period of DROP participation before a DROP participant's termination of employment, the following amounts shall be credited to the DROP participant's DROP account, including prorated amounts for partial months of service:

(1) an amount equal to what would have been the DROP participant's monthly normal retirement benefit if the DROP participant had retired on the DROP participant's DROP entry date, except that the monthly amount shall be computed based on the DROP participant's credited service and average monthly salary as of the DROP entry date and the benefit accrual rates and maximum allowable benefit applicable on the DROP election date, with the cost-of-living adjustments payable under Subsection (s) of this section, if any, that would apply if the DROP participant had retired on the DROP participant's DROP entry date; and

(2) subject to Subsection (d-1) of this section, interest on the DROP participant's DROP account balance computed at a rate determined by the pension board and compounded at intervals designated by the pension board, but at least once in each 13-month period.

(d-1) Beginning January 1, 2018, the pension board shall establish the interest rate applicable under Subsection (d)(2) of this section as of January 1 of each year at a rate:

(1) except as provided by Subdivision (2) of this subsection, equal to half the pension system's five-year investment return based on a rolling five-fiscal-year basis and net of investment expenses; and

(2) that may not be less than 2.5 percent or more than 7.5 percent.

(e) The monthly amount credited under Subsection (d)(1) of this section may not include any amount that is intended to help defray an increase in group medical insurance costs as described by Section 15(a) of this Act. In any year in which a supplemental payment is made to retirees under Section 15(b) of this Act, an amount equal to the amount of the supplemental payment that would have been made to the DROP participant if the DROP participant had retired on the DROP entry date shall be credited to the DROP participant's DROP account.

(f) The period for credits to a DROP participant's DROP account

includes each month beginning with the DROP participant's DROP entry date through the date the DROP participant terminates employment with the city or the pension system. Credits may not be made to a DROP participant's DROP account for a period that occurs after the date the DROP participant terminates employment, except that interest at a rate determined by the pension board may be paid on the person's undistributed DROP account balance after the date the person terminates employment. A DROP participant must pay required contributions to the pension system for all time in DROP that would otherwise constitute service in order to receive allowable credits to the DROP participant's DROP account.

(g) A DROP participant who terminates employment is eligible to elect to receive the DROP participant's DROP benefit in a lump sum, in substantially equal periodic payments, in a partial lump sum followed by substantially equal periodic payments, or in partial payments from the participant's DROP account, in a manner and form determined by the pension board. The pension board may establish procedures concerning partial payments under this subsection, including limitations on the timing and frequency of those payments. A participant who elects partial payments may elect to receive the participant's entire remaining DROP account balance in a single lump-sum payment. The pension board shall determine a reasonable time for lump-sum and periodic payments of the DROP benefit. All distributions and changes in the form of distribution must be made in a manner and at a time that complies with that provision of the Internal Revenue Code of 1986, as amended.

(h) If a DROP participant dies before the full distribution of the DROP participant's DROP account balance, the undistributed DROP account balance shall be distributed to the DROP participant's surviving spouse, if any, in a lump-sum payment within a reasonable time after the pension board has determined that the surviving spouse is eligible for the distribution. If there is no surviving spouse, each beneficiary of the DROP participant, as designated in the manner and on a form established by the pension board, is eligible to receive the beneficiary's applicable portion of the deceased DROP participant's undistributed DROP account balance in a lump-sum payment within a reasonable time after the pension board has determined that the beneficiary is eligible for the distribution. If no beneficiary is designated, the undistributed DROP account balance shall be distributed to the deceased participant's estate.

(i) A DROP participant is ineligible for disability benefits provided by this Act.

(j) An election to participate in the DROP is irrevocable, except that:

(1) if a DROP participant is approved for a service disability pension, the DROP participant's DROP election is automatically revoked; and

(2) if a DROP participant dies, the surviving spouse, if any, or the beneficiary, if any, may elect to revoke the DROP participant's DROP election, at a time and in a manner determined by the pension board, only if the revocation occurs before a distribution from the DROP participant's DROP account or the payment of a survivor benefit under this Act or Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes).

(k) On revocation of a DROP election under Subsection (j) of this section, the DROP account balance becomes zero, and a distribution of DROP benefits may not be made to the participant, the participant's surviving spouse, or the participant's beneficiaries. In the event of revocation, the benefits based on the participant's service are determined as if the participant's DROP election had never occurred.

(l) Under a rule adopted by the pension board under this section, the surviving spouse of a deceased member or, if the member has no surviving spouse, the designated beneficiary of the deceased member may make the DROP election that the deceased member would have been eligible to make the day before the member's death and may receive the DROP distribution in a lump sum within a reasonable time after the pension board has determined that the surviving spouse or designated beneficiary is eligible for the distribution. A DROP election by the surviving spouse or designated beneficiary under this subsection may not be made after the sixth month after the date of the member's death. An election may not be made under this subsection if a survivor benefit or other distribution has been made with respect to the deceased member. Notwithstanding any other provision, an election made under this subsection is irrevocable.

(m) If an unanticipated actuarial cost occurs in administering the DROP, the pension board, on the advice of the pension system actuary, may take action necessary to mitigate the unanticipated cost, including refusal to accept additional elections to participate

in the DROP. The pension system shall continue to administer the DROP for the DROP participants participating in the DROP before the date of the mitigating action.

(n) A former DROP participant who is rehired by the city or the pension system following termination of employment is not eligible to participate in the DROP.

(o) Except as provided by Subsection (o-1) of this section, on termination of employment, a DROP participant shall receive a normal retirement pension under Section 10 of this Act or under Section 11, 22A, or 24 of Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), as those sections read on the day preceding the participant's DROP entry date, as applicable, except that the credited service under that section is the member's credited service as of the day before the member's DROP entry date, the benefit accrual rate applicable to the credited service shall be the benefit accrual rate in effect on the member's DROP election date, the maximum allowable benefit shall be the maximum allowable benefit in effect on the member's DROP election date, and the member's average monthly salary is the average monthly salary determined as of the later of the member's DROP entry date or January 1, 2005, as applicable. The DROP participant's normal retirement pension is increased by any cost-of-living adjustments applied to the monthly credit to the member's DROP account under Subsection (d)(1) of this section during the member's participation in the DROP. Cost-of-living adjustments applicable to periods after the date of the DROP participant's termination of employment are based on the DROP participant's normal retirement pension computed under this subsection or Subsection (o-1) of this section, as applicable, excluding any cost-of-living adjustments.

(o-1) On termination of employment, and before any benefit or DROP payment, a DROP participant who is an option-eligible participant shall make the required election under Section 11 of this Act. If the option-eligible participant elects a J&S Annuity, the DROP account, including all DROP credits, shall be recalculated from the DROP entry date to termination of employment as provided by Subsection (o) of this section as if the J&S Annuity was selected to be effective as of the DROP entry date.

(p) If a DROP election is not revoked under Subsection (j) of this section, the survivor benefit payable to an eligible survivor of a deceased DROP participant under Section 14 of this Act is computed

as a percentage of the monthly ordinary disability pension that the member would have been eligible to receive had the member suffered a disability the day before the member's DROP entry date, except that the ordinary disability pension is computed based on the DROP participant's credited service as of the day before the DROP participant's DROP entry date, the benefit accrual rate applicable to the credited service as of the DROP participant's DROP election date, and the DROP participant's average monthly salary as of the later of the DROP participant's DROP entry date or January 1, 2005, as applicable. A surviving spouse, if any, of a DROP participant who dies from a cause directly resulting from a specific incident in the performance of the DROP participant's duties for the city or the pension system is ineligible to receive enhanced survivor benefits under Section 14(c) of this Act unless the DROP election is revoked under Subsection (j)(2) of this section and the surviving spouse receives a survivor benefit as otherwise provided by this subsection.

(q) The pension board may adopt rules for the implementation and operation of the DROP, including rules regarding the payment of DROP benefits.

(r) Except as provided by Subsection (s) of this section, the pension system may not credit a DROP account with a cost-of-living adjustment percentage on or after February 1, 2018.

(s) On or after February 1, 2018, and for future credit only, the pension system shall credit a cost-of-living adjustment percentage, not compounded, to the DROP account of a DROP participant who was at least 62 years of age as of January 1 of the year in which the increase is made.

(t) The pension board may establish deadlines for the submission of any information, document, or other record pertaining to DROP.

Sec. 13. DISABILITY PENSIONS. (a) A member who has completed five or more years of credited service and who becomes disabled is eligible, regardless of age, for an ordinary disability retirement and shall receive a monthly disability pension computed in accordance with Section 10(d) of this Act.

(b) A member who is disabled by reason of a personal injury sustained or a hazard undergone as a result of, and while in the performance of, the member's employment duties at some definite place and at some definite time on or after the date of becoming a member, without serious and wilful misconduct on the member's part, is

eligible for a service disability retirement and shall receive a monthly disability pension equal to the greater of:

(1) the monthly normal retirement pension computed under Section 10(d) of this Act; or

(2) 20 percent of the member's monthly salary on the date the injury occurred or the hazard was undergone.

(c) In addition to the monthly disability pension under Subsection (b)(2) of this section, a group A member shall receive one percent of the salary under Subsection (b)(2) of this section for each year of credited service. The total disability pension computed under Subsection (b)(2) of this section may not exceed the greater of:

(1) 40 percent of that monthly salary; or

(2) the monthly normal retirement pension computed in accordance with Section 10(d) of this Act.

(d) A disability pension may be granted under this section to a member only if the member is unable to perform work or services as an employee due to the disability. A member who is granted a disability pension is considered to have resigned and shall be removed from the employment rolls of the city or the pension system not later than the last day of the month in which the disability pension is approved.

(e) A person retired for disability under this Act or a person receiving survivor benefits as a disabled dependent child under this Act shall file an annual report of employment activities and earnings with the pension board. The pension board shall establish the form of the report and the time for filing the report. If the amount of the earnings added to the disability pension being received by the member exceeds the amount of the monthly salary of the member at the time of the member's separation from service, as adjusted annually by cost-of-living adjustments equal to the percentage change in the Consumer Price Index for All Urban Consumers for the preceding year, as determined by the United States Department of Labor, but not to exceed the cost-of-living adjustment provided by Section 10(h) of this Act, the pension board may reduce the amount of the pension. A disability pension recipient is not required to submit the annual affidavit of employment activities and earnings after the recipient reaches:

(1) the date on which the recipient would be eligible to retire, if Section 10(b) or (c) applied to the recipient; or

(2) 65 years of age.

(f) A member may not receive a disability pension and a deferred or normal retirement pension at the same time. If a member who has at least five years of credited service is eligible for a disability pension, the member's disability ceases to exist, and the member does not return to work for the city, the member is eligible to receive a deferred or normal retirement pension, beginning on the later of the member's effective retirement date or the date the disability ceases. The deferred or normal retirement pension is based on actual credited service up to the time of disability and is computed based on the schedule of benefits and provisions in effect on the person's last day of credited service.

(g) A former member who is retired for disability or a person receiving survivor benefits as a disabled dependent child under this Act is subject at all times to reexamination by the pension board and shall submit to an examination the pension board requires. If the disability retiree or dependent child who is receiving survivor benefits as a disabled child refuses to submit to a required examination, the pension board may order that payments be suspended, up to and including discontinuation of the disability pension or survivor benefit. If the pension board determines that a member who has been retired for a disability or a person who is receiving survivor benefits as a disabled dependent child recovers so that the member or person is able to perform the usual and customary duties formerly handled by the member or person or other full-time duties that could be performed by the member or person, the pension board shall suspend or discontinue pension or survivor benefit payments.

(h) The result of an examination, report by a physician, or report of employment activities and earnings shall be considered by the pension board in determining whether the benefits shall be continued, increased if less than the maximum provided, decreased, or discontinued. The pension board may reduce, suspend, or discontinue all benefits to a person receiving benefits under this section who, after notice from the pension board:

(1) fails to appear for a required examination;

(2) fails to file a report of employment activities and earnings or another related report requested by the pension board; or

(3) files a materially false or misleading report of employment activities and earnings or examination result or other report, as determined by the pension board.

(i) To apply for a disability pension, a person must be a

member or a former member whose separation from service occurred not more than 30 days before the date the pension system receives the person's request to apply for a disability pension as a result of a disability that arose during employment, except that a member may not apply for a disability pension after the sixth month after the date of the member's last day of credited service.

Sec. 14. SURVIVING SPOUSE AND DEPENDENT CHILD MONTHLY ALLOWANCE. (a) Except as provided by Section 11 or 12 of this Act, the pension board shall order survivor benefits to be paid to an eligible survivor in the form of a monthly allowance under this section if:

(1) a member or former member of group A or group B dies from any cause after the completion of five years of credited service with the city or the pension system;

(2) while in the service of the city or the pension system, a member dies from any cause directly resulting from a specific incident in the performance of the member's duty;

(3) a member of group A or group B dies after the date the member retires on a pension because of length of service or a disability and the member leaves an eligible survivor; or

(4) a member of group D dies from any cause after the completion of five years of credited service with the city or the pension system if the member on the date of the member's death was still in service with the city or the pension system.

(b) A surviving spouse of a member described by Subsection (a)(1) or (4) of this section who dies while still in service with the city or the pension system is eligible for a sum equal to the following applicable percentage of the retirement benefits to which the deceased member or former member would have been eligible had the member been totally disabled with an ordinary disability at the time of the member's last day of credited service:

(1) 80 percent, if the member's death occurs on or after the year 2017 effective date and the spouse was married to the member for at least one continuous year as of the member's date of death, except that the allowance payable to the surviving spouse may not be less than $100 a month; or

(2) 50 percent, if the member's death occurs on or after the year 2017 effective date and the spouse was married to the member for less than one continuous year as of the date of the member's death.

(b-1) A surviving spouse of a former member described by Subsection (a)(1) of this section who dies on or after the year 2017 effective date while not in the service of the city or the pension system and before the member's retirement commenced, is eligible for a sum equal to 50 percent of the deceased former member's normal accrued pension at the time of the deceased former member's last day of credited service. Benefits under this subsection first become payable on the date the former member would have become eligible to begin receiving a pension. If the surviving spouse elects for earlier payment, in a time and manner determined by the pension board, the actuarial equivalent of that amount shall be payable at that earlier date.

(c) A surviving spouse of a member described by Subsection (a)(2) of this section who dies from a cause directly resulting from a specific incident in the performance of the member's duty with the city or the pension system, without serious or wilful misconduct on the member's part, is eligible for a sum equal to 80 percent of the deceased member's final average salary.

(d) A surviving spouse of a retiree described by Subsection (a)(3) of this section who dies after having received retirement benefits is eligible for a sum equal to the following applicable percentage of the retirement benefits being received at the time of the retiree's death, including any applicable cost-of-living adjustment in the survivor benefit under Section 10(h) of this Act computed based on the unadjusted normal retirement pension of the deceased retiree:

(1) 80 percent, if the retiree's death occurs on or after the year 2017 effective date and the retiree separated from service with the city or pension system before the year 2017 effective date;

(2) 80 percent, if the retiree's death occurs on or after the year 2017 effective date and the retiree separated from service with the city or pension system on or after the year 2017 effective date, provided the surviving spouse was married to the retiree at the time of the retiree's death and for at least one continuous year as of the date of the retiree's separation from service; or

(3) 50 percent, if both the retiree's separation from service and death occur on or after the year 2017 effective date and the surviving spouse was married to the retiree at the time of the retiree's death for less than one continuous year as of the date of the retiree's separation from service.

(e) If there is a surviving spouse, each dependent child shall receive a survivor benefit equal to 10 percent of the pension the member would have received if the member had been disabled at the time of death up to a maximum of 20 percent for all dependent children, except that if the total amount payable to the surviving spouse and dependent children is greater than 80 percent of the benefit the member would have received, the percentage of benefits payable to the surviving spouse shall be reduced so that the total amount is not greater than 80 percent of the benefit the member would have received, and the reduction shall continue until the total amount payable to the surviving spouse and dependent child, if any, would not be greater than 80 percent of the benefit the member would have received.

(f) If there is no surviving spouse, each dependent child is eligible to receive a survivor benefit equal to 50 percent of the amount of the surviving spouse benefit had there been a surviving spouse, not to exceed 100 percent of the surviving spouse benefit for all dependent children in the aggregate.

(g) Benefits for a dependent child are payable to the guardian of the child, except that the pension board may approve the payment of benefits to a child who is at least 18 years of age. As used in this subsection, "guardian" means the person who has the primary responsibility for a child's care and support, including the surviving parent, a legal guardian, a managing conservator, or any other person with a similar legal relationship to the child.

(h) If a retiree dies and there is no eligible survivor, the retiree's spouse, if any, or if there is no spouse, the retiree's estate, is eligible to receive a lump-sum payment of the unamortized balance of the retiree's accrued employee contributions, if any, other than contributions after the DROP entry date, as determined by an amortization schedule and method approved by the pension board. A pension payable to a retiree ceases on the last day of the month of the retiree's death. A survivor benefit payable to an eligible survivor is effective on the first day of the month following the month of the retiree's death and ceases on the last day of the month of the eligible survivor's death or on the last day of the month in which the survivor otherwise ceases to be eligible to receive a survivor's benefit.

Sec. 15. INCREASE IN BENEFITS. (a) In addition to the postretirement increases under Section 10(h) of this Act, the pension

board may increase annuities payable under this Act by an amount that does not exceed the annual increase in the amount of premiums being paid under a group insurance program provided for retirees of the city.

(b) The pension board may distribute a supplemental payment to all retirees and eligible survivors who are receiving annuities as of January 1 of the year in which the supplemental payment is made. The supplemental payment shall be credited to DROP participants who are participating in DROP as of January 1 of the year in which the supplemental payment is made, if the pension board's actuary determines that as of the end of any fiscal year:

(1) the value of the pension system's assets exceeds the amount of the pension system's accrued liability;

(2) the pension system has met the actuarial investment assumption for the previous fiscal year; and

(3) the issuance of the supplemental check will not cause the city's contribution rate to increase.

(c) A person may not receive more than one supplemental payment as a result of the person's status as:

(1) a retiree and eligible survivor; or

(2) a DROP participant and eligible survivor.

(d) A pension benefit or allowance provided by this article may be increased if:

(1) a qualified actuary selected by the pension board determines that the increase cannot reasonably be considered to jeopardize the pension system's ability to pay any existing benefit;

(2) the increase is approved by the pension board and the city in a written agreement as provided by Section 3(n) of this article; and

(3) the increase does not deprive a member or retiree, without the written consent of the member or retiree, from receiving the immediate or deferred retirement benefit that the member or retiree was eligible to receive under this article before the increase.

Sec. 16. LUMP-SUM BENEFIT PAYMENT. (a) Notwithstanding any other provision of this Act, the pension board may pay to a member, deferred participant, eligible survivor, alternate payee, or beneficiary in a lump-sum payment the present value of any benefit payable to such a person that is less than $20,000 instead of paying any other benefit payable under this Act. If the lump-sum present

value of the benefit is at least $1,000 but less than $20,000, the pension board may make a lump-sum payment only on written request by the member, deferred participant, eligible survivor, alternate payee, or other beneficiary. The pension board shall make any payment under this subsection as soon as practicable after eligibility under this section has been determined by the pension board.

(b) The pension board shall adopt actuarial assumptions, including an interest rate, to be used in determining lump-sum present values and amounts distributable under this section.

(c) If the pension board determines that available resources in the pension fund are inadequate to make lump-sum payments, payments under this section shall be made monthly in amounts the pension board determines.

(d) Payments under this section may not be made for a benefit that was being paid by the predecessor system or this pension system.

(e) A member who is reemployed by the city or the pension system and who has at least two years of continuous credited service after reemployment may reinstate service for which the member received a lump-sum payment under this section by paying into the pension fund the amount of the lump-sum payment, plus interest on that amount at the applicable assumed rate of return, not compounded, from the date the lump-sum payment was made to the member until the date of repayment to the pension fund.

(f) The actuarial value of a lump-sum payment is determined as of the last day of credited service or September 1, 1995, whichever is later.

Sec. 17. TERMINATION OF EMPLOYMENT; DEATH; REEMPLOYMENT. (a) A member who terminates employment with the city involuntarily due to a reduction in workforce, as determined by the pension board, before the member becomes eligible for a normal retirement pension or attains five years of credited service, is eligible to leave the person's contributions in the pension fund until the first anniversary of the date of termination. If during that period the person is reemployed by the city and has not withdrawn the person's contributions, all rights and service credit as a member shall be immediately restored without penalty. If reemployment with the city does not occur before the first anniversary of the date of termination, all payments made by the person into the pension fund by salary deductions or other authorized contributions shall be refunded to the person without interest. If the person is subsequently

reemployed, the person may have credit restored, subject to the provisions applicable at the time of reemployment.

(b) A member who leaves employment voluntarily, before becoming eligible for a normal retirement or disability pension, ceases to be a member of the pension system and shall be refunded all eligible payments made by the member into the pension fund by salary deductions or other authorized contributions, without interest, subject to this section.

(c) A former member of group A or group B whose employment is terminated for a reason other than death or receipt of a retirement or disability pension after the completion of five years of credited service may elect, in a manner determined by the pension board, to receive a deferred retirement pension that begins on the member's effective retirement date after the member attains the eligibility requirements for normal retirement under Section 10 of this Act as it existed on the member's last day of credited service. The amount of monthly benefit shall be computed in the same manner as for a normal retirement pension, but based on average monthly salary and credited service as of the member's last day of credited service and subject to the provisions of this Act or Chapter 358, Acts of 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), in effect on the former member's last day of credited service.

(c-1) A former member of group D whose employment is terminated for a reason other than death or receipt of a retirement or disability pension after the completion of five years of credited service may elect, in a manner determined by the pension board, to receive a deferred normal retirement pension that begins on the former member's effective retirement date after the member attains 62 years of age. The amount of a monthly benefit under this subsection shall be computed in the same manner as a normal retirement pension, except the benefit shall be based on the average monthly salary and credited service of the former member as of the former member's last day of credited service and subject to the provisions of this Act in effect on the former member's last day of credited service.

(c-2) A former member of group D whose employment is terminated for a reason other than death or receipt of a retirement or disability pension and who has met the minimum years of credited service to receive an early reduced retirement pension under Section 10(e) of this Act on attaining the required age, may elect, in a

manner determined by the pension board, to receive a deferred early retirement pension that begins on the former member's effective retirement date after the member attains the required age under Section 10(e) of this Act. The amount of monthly benefit shall be computed in the same manner as for an early retirement pension under Section 10(e) of this Act, except that the benefit shall be based on the average monthly salary and credited service of the former member as of the former member's last day of credited service and subject to the provisions of this Act in effect on the former member's last day of credited service.

(d) If a member dies while still employed by the city, whether eligible for a pension or not, and Sections 12 and 14 of this Act do not apply, all of the member's rights in the pension fund shall be satisfied by the refund to the member's spouse, if any, or if there is no spouse, to the member's estate, of all eligible payments, if any, made by the member into the pension fund, without interest.

(e) If there is no eligible survivor of the former member, all of the former member's rights in the pension fund shall be satisfied by the refund to the former member's spouse, if any, or if there is no spouse, to the former member's estate, of all eligible payments made by the former member into the pension fund by way of employee contributions, without interest.

(f) This Act does not change the status of any former member of the predecessor system whose services with the city or the pension system were terminated under Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), except as otherwise expressly provided. Refunds of contributions made under this section shall be paid to the departing member, the member's spouse, or the member's estate on written request and approval by the pension board in a lump sum, except that if the pension board determines that funds are insufficient to justify the lump-sum payment, the payment shall be refunded on a monthly basis in amounts determined by the pension board.

(g) If a deferred participant is reemployed by the city or the pension system before receiving a deferred retirement pension or if a retiree is reemployed by the city or the pension system, Subsections (h) and (j) of this section apply to the computation of the member's pension following the member's subsequent separation from service if the member was a member on or after May 11, 2001, and is not otherwise subject to Subsection (q) of this section.

(h) If a member described in Subsection (g) of this section accrues not more than two years of continuous credited service after reemployment:

(1) the portion of the member's deferred or normal retirement pension attributable to the member's period of credited service accrued before the date of the member's original or previous separation from service is computed on the basis of the applicable provisions of this Act or the predecessor system that were in effect on the member's last day of credited service for the original or previous period of credited service;

(2) the portion of the member's deferred or normal retirement pension attributable to the member's period of credited service accrued after the date of the member's reemployment by the city or the pension system is computed on the basis of the applicable provisions of this Act or the predecessor system in effect on the member's last day of credited service for the subsequent period of credited service; and

(3) the disability pension or survivor benefit attributable to the member's period of credited service accrued both before the date of the member's original or previous separation from service and after the date of the member's reemployment by the city or the pension system is computed on the basis of the applicable provisions of this Act or the predecessor system that were in effect on the member's last day of credited service for the original or previous period of credited service.

(i) Subject to Subsection (l) of this section, the disability pension or survivor benefit under Subsection (h)(3) of this section is computed by adding the following amounts:

(1) the amount of the benefit derived from the member's credited service accrued after the date of reemployment based on the benefit accrual rate in effect on the member's last day of original or previous credited service in the group in which the member participated on the member's last day of subsequent credited service; and

(2) the amount of the benefit the member, beneficiary, or eligible survivor was eligible to receive based on the member's original or previous credited service and the provisions in effect on the member's last day of original or previous credited service.

(j) If a member described by Subsection (g) of this section accrues more than two years of continuous credited service after

reemployment, for purposes of future payment only, a deferred retirement pension, normal retirement pension, disability pension, or survivor benefit is computed on the basis of the applicable provisions of this Act or the predecessor system in effect on the member's last day of credited service for the subsequent service.

(k) Notwithstanding any other provision of this Act, if a retiree is reemployed by the city or the pension system and becomes a member, the retiree's pension under this Act ceases on the day before the date the retiree is reemployed. Payment of the pension shall be suspended during the period of reemployment and may not begin until the month following the month in which the reemployed retiree subsequently terminates employment. On subsequent separation, benefits payable are computed under Subsections (h) and (j) of this section, as applicable. If the reemployed retiree receives any pension during the period of reemployment, the retiree shall return all of the pension received during that period to the pension system not later than the 30th day after the date of receipt. If the reemployed retiree does not timely return all of the pension, the pension board shall offset the amount not returned against the payment of any future retirement pension, disability pension, DROP balance, or survivor benefit payable on behalf of the reemployed retiree, plus interest on the disallowed pension at the applicable assumed rate of return, not compounded, from the date the reemployed retiree received the disallowed pension to the date of the offset on the disallowed pension.

(l) Except as provided by Section 14 of this Act, if a member is covered by Subsection (h) of this section and has made an election or was eligible to make an election under Section 11 of this Act or an optional annuity election under Section 29, Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), or has received a pension computed on the basis of an optional annuity election, the optional annuity election, including any designation of an eligible designated survivor, governs the payment of any pension or benefit for the period of service covered by the optional annuity election, and no other survivor benefit is payable for that period of service. If a member meets the requirements of Subsection (j) of this section and has made an optional annuity election or has received a pension computed on the basis of an optional annuity election, the optional annuity election, including any designation of an eligible designated survivor, shall

control the payment of any pension or benefit, and no other survivor benefit is payable unless the member elects, not later than the 90th day after the date of the separation of employment and before payment of a pension, to revoke the optional annuity election for future payment of benefits. If revocation occurs, any survivor benefit is paid under Subsection (j) of this section.

(m) If a member's service is terminated before the member has completed five years of service for any reason other than death, a city workforce reduction as described by Subsection (a) of this section, or a service disability, the member:

(1) forfeits the member's accrued pension, service and credited service, and any benefit payable under this Act; and

(2) shall be refunded, on written request, the amount paid by the member into the pension fund as employee contributions, without interest, in full satisfaction of the member's rights under this Act.

(n) This section does not allow retroactive payment of any benefits or other amounts under this section to any member, retiree, deferred participant, beneficiary, eligible survivor, estate, or other person or entity.

(o) After separation from service, a member is subject to the schedule of benefits and provisions in effect on the member's last day of credited service, except as otherwise expressly provided by this Act.

(p) A person receiving or eligible for a survivor benefit under this Act is subject to the schedule of benefits and provisions in effect on the last day of credited service of the deceased participant for whom the person is claiming survivor status, except as otherwise expressly provided by this Act.

(q) Subsections (g) through (l) of this section do not apply to the calculation of any benefit for or attributable to the period of service following:

(1) the employment or reemployment of a member hired or rehired on or after January 1, 2005; or

(2) the reemployment of a deferred retiree or retiree who is reemployed in a pension system covered position before January 1, 2005, but for a period of two years or less of continuous credited service.

(r) If a deferred retiree or retiree subject to Subsection (q)(2) of this section is reemployed in a pension system covered

position, the retiree's pension due on the retiree's subsequent retirement shall be computed as follows:

(1) the portion of the retiree's pension attributable to the retiree's periods of credited service that accrued before the retiree's reemployment shall be calculated on the basis of the schedule of benefits for retiring members that was in effect at the time of the member's previous termination or terminations of employment; and

(2) the portion of the member's pension attributable to the member's period of credited service that accrued after the member's reemployment shall be calculated on the basis of the schedule of benefits for retiring members that is in effect at the time of the member's subsequent retirement.

(s) The computation under Subsection (r) of this section may not result in a lower pension benefit amount for the previous service of the retiree than the pension benefit amount the retiree was eligible to receive for the retiree's previous service before the date of reemployment.

Sec. 18. MILITARY SERVICE CREDIT. (a) Notwithstanding any other provision of this Act, contributions, benefits, and service with respect to service in the uniformed services, as defined in 38 U.S.C. Section 4301 et seq., of a member who is eligible for reemployment rights with the city under 38 U.S.C. Section 4301 et seq. for the service shall be provided in accordance with Section 414(u), Internal Revenue Code of 1986, as amended.

(b) The city shall make the employer contributions to the pension fund for the employee's membership for each month of service credit in which the member is engaged in service in a uniformed service described by Subsection (a) of this section, based on the member's rate of monthly compensation as of the date the member left the member's position.

(c) A member who has active military service for which the member is not eligible for reemployment rights with the city under 38 U.S.C. Section 4301 et seq. may receive credited service for the active military service on proper action by the pension board if the member:

(1) has completed at least five years of credited service in the pension system;

(2) obtains, at the member's cost, a report approved by the pension board of the actuarial cost of the service for which the

member claims credit, with service time expressed as a number of whole months; and

(3) pays the actuarially determined cost of the service under Subdivision (2) of this subsection as approved by the pension board, plus all administrative costs associated with crediting the service, if any, plus six percent interest from the due date of the amounts until the date full payment is made to the pension fund, with the payments made before:

(A) the fifth anniversary of the date the claim for service is made, if a member does not terminate employment before the fifth anniversary; or

(B) the 60th day after the date employment is terminated, if a member terminates employment before the fifth anniversary of the date the claim for service is made.

(d) The military service credited under Subsection (c) of this section:

(1) may not exceed a total of 60 months; and

(2) may be claimed as service solely in the group in which the member participates at the time the member claims the service.

Sec. 19. MULTIPLE PENSIONS. (a) The pension board may authorize a member to make a one-time irrevocable election, on a date and in a manner established by the pension board, to cease to be a member of the pension system and, for future service only, to become a member of the retirement system governed by Article 6243e.2(1), Revised Statutes, or Article 6243g-4, Revised Statutes, or a successor statute to either of those laws, if the member:

(1) was a member of the pension system as authorized under Section 16B, Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes);

(2) is in a position covered by another retirement system to which the city contributes; and

(3) has not begun to receive payment of benefits from the pension system.

(b) A person who does not make an election to cease membership in the pension system under Subsection (a) of this section remains a member of the pension system as authorized under this Act.

(c) A person who makes an election to cease membership in the pension system is considered to have separated from service on the date of the election established by the pension board.

(d) Notwithstanding any other provision of this Act,

duplication of any pension or benefit payable from the pension system and any pension or benefit payable under another defined benefit pension plan to which the city contributes is not permitted. Any pension or benefit payable to any person under another defined benefit pension plan, based on a period of service for which credited service is given under this Act, is deducted from the total pension or benefit otherwise payable to the participant under this Act, except that the pension or benefit may not be reduced to an amount less than the amount that would have been payable if the period of service had been excluded from service.

Sec. 20. SERVICE FOR FORMERLY INELIGIBLE EMPLOYEES. (a) A member who was ineligible to be a member under Section 4(d), Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), before September 1, 1999, because the member was receiving a pension from another pension system of the city to which the city contributes may purchase credited service solely in group A for otherwise eligible service previously disallowed by Section 4(d), Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), if the member:

(1) has been continuously employed by the city since the date of reemployment into a municipal position that became covered by Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), on September 1, 1999, by removal of the prohibition under Section 4(d), Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes);

(2) would have been eligible to be a member and receive service for the municipal employment before September 1, 1999, but for the prohibition under Section 4(d), Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes);

(3) was a member in group A on September 1, 1999, and on September 1, 2001;

(4) makes written application, in a manner and time determined by the pension board, to receive credited service in group A for all otherwise eligible service; and

(5) on approval by the pension board, pays into the pension fund all contributions that would have been deducted or picked up as member contributions during the period of claimed service as

described by Section 7(c) of this Act, including required interest.

(b) Payments of the amounts required under this section must be completed by the earliest of:

(1) the date of the member's termination of employment or term in office;

(2) the date of the member's retirement or death; or

(3) the fifth anniversary of the date of the member's approved claim for credited service under this section.

(c) If the payments are not completed within the period described by Subsection (b) of this section, the member or the member's estate may either make an immediate payment of the balance due or receive a refund, without interest, of the member's contributions to group A for the claimed service. If the refund is paid, the member is considered to have never been eligible for credit for the service claimed under this section.

Sec. 21. REDUCTION OF BENEFITS; DISSOLUTION OF SYSTEM. (a) If the pension board determines that the pension fund is seriously depleted, the pension board may proportionately and temporarily reduce the benefits of all retirees, eligible survivors, alternate payees, and beneficiaries.

(b) The amount of any reduction under Subsection (a) of this section shall be paid to the retirees, eligible survivors, alternate payees, and beneficiaries if the pension board determines that the pension fund is sufficiently reestablished to pay the amounts.

(c) If the reserve and surplus in the pension fund become exhausted and the payouts of the pension fund exceed the income to the pension fund, the governing body of the city by ordinance may dissolve the pension system and require liquidation of the pension system without any liability to the city.

(d) Any retiree or eligible survivor receiving a retirement pension or survivor benefit may, at that person's option, receive a smaller retirement pension or survivor benefit after properly making a request in writing to the pension board.

Sec. 22. EXEMPTION FROM EXECUTION, ATTACHMENT, OR OTHER WRIT. (a) No portion of the pension fund, either before or after its order of disbursement by the pension board, and no amount due or to become due to any retiree, eligible survivor, or beneficiary, may be held, seized, taken, detained, or levied on by, or subjected to, execution, attachment, garnishment, injunction, or any other writ. No order or decree, or any process or proceeding, may be issued by a court of

this state for the payment or satisfaction in whole or in part out of the pension fund of a debt, damage, claim, demand, or judgment against any member, retiree, eligible survivor, or other person. The pension fund and any claim on the pension fund may not be directly or indirectly assigned or transferred. Any attempt to transfer or assign the pension fund or any part of the pension fund, and any claim on the pension fund, is void. The pension fund shall be sacredly held, kept, and disbursed only for the purposes provided by this Act, except that a retiree or eligible survivor may have deducted from that person's pension or survivor benefit an amount required by law or a voluntary amount authorized by law and the pension board.

(b) This section does not prevent the division of benefits accrued by a member under any court order determined by the pension board or its designee to be a qualified domestic relations order and the payment of a share of a retiree's benefits or contributions to an alternate payee in accordance with the order.

(c) This section does not prevent the offset of amounts received wrongly or in error against future pension or benefit payments under Section 3(h) of this Act.

Sec. 23. FEDERAL TAX QUALIFICATION OF PENSION FUND; MAXIMUM BENEFITS FROM PENSION FUND. (a) The pension fund is intended to qualify under Section 401(a), Internal Revenue Code of 1986, as amended, and is for the exclusive benefit of the members and retirees and their eligible survivors. No part of the corpus or income of the pension fund may ever be used for or diverted to any purpose other than for the benefit of members and retirees and their eligible survivors as provided by this Act.

(b) A member, retiree, or eligible survivor of the pension system may not accrue a retirement pension, disability retirement allowance, survivor benefit, death benefit allowance, DROP benefit, or any other benefit under this Act in excess of the benefit limits applicable to the pension fund under Section 415, Internal Revenue Code of 1986, as amended. The pension board shall reduce the amount of any benefit that exceeds those limits by the amount of the excess. If total benefits under the pension fund and the benefits and contributions to which any member is eligible under any other qualified plan maintained by the city that employs the member would otherwise exceed the applicable limits under Section 415, Internal Revenue Code of 1986, as amended, the benefits the member would

otherwise receive from the pension fund shall be reduced to the extent necessary so that the benefits do not exceed the benefit limits under Section 415, Internal Revenue Code of 1986, as amended.

(c) Any member, retiree, or eligible survivor who receives any distribution that is an eligible rollover distribution as defined by Section 402(c)(4), Internal Revenue Code of 1986, as amended, is eligible to have that distribution transferred directly to another eligible retirement plan of the member's, retiree's, or eligible survivor's choice on providing direction to the pension system regarding that transfer in accordance with procedures established by the pension board.

(d) The total salary taken into account for any purpose for any member or retiree of the pension system may not exceed $200,000 for any year for an eligible participant, or $150,000 a year for an ineligible participant. These dollar limits shall be adjusted from time to time in accordance with guidelines provided by the United States secretary of the treasury. For purposes of this subsection, an eligible participant is a person who first became a member of the predecessor system before 1996, and an ineligible participant is a member who is not an eligible participant.

(e) Accrued benefits under this Act become 100 percent nonforfeitable for a member on the date the member has completed five years of credited service, except as otherwise provided by law. If the pension system or the pension fund is terminated or partially terminated, or city contributions to the pension fund are discontinued completely, there may not be a reversion of funds to the city. On the complete or partial termination or discontinuance of city contributions, the pension fund held by the pension system shall be used exclusively for benefits for members, deferred participants, retirees, and their eligible survivors, and the affected employees' rights to the benefits, to the extent funded, shall be nonforfeitable if not already nonforfeitable under this subsection.

(f) Amounts representing forfeited benefits of terminated members may not be used to increase benefits payable from the pension fund, but may be used to reduce contributions for future plan years.

(g) Distributions of benefits must begin not later than April 1 of the year following the calendar year during which the member becomes 70-1/2 years of age or terminates employment with the employer, if later, and must otherwise conform to Section 401(a)(9), Internal Revenue Code of 1986, as amended.

(h) If the amount of any benefit is to be determined on the basis of actuarial assumptions that are not otherwise specifically set forth for that purpose in this Act, the actuarial assumptions to be used are those earnings and mortality assumptions being used on the date of the determination by the pension fund's actuary and approved by the pension board. The actuarial assumptions being used at any particular time shall be attached as an addendum to a copy of this Act and treated for all purposes as a part of the Act. The actuarial assumptions may be changed by the pension fund's actuary at any time if approved by the pension board. A change in actuarial assumptions may not result in any decrease in benefits accrued as of the effective date of the change.

(i) To the extent permitted by law, the pension board may adjust the benefits of retirees and eligible survivors by increasing any benefit that was reduced because of Section 415, Internal Revenue Code of 1986, as amended. If Section 415, Internal Revenue Code of 1986, as amended, is amended to permit the payment of amounts previously precluded under that section, the pension board may adjust the benefits of retirees and eligible survivors, including restoring benefits previously denied. Benefits paid under this subsection are not extra compensation earned after retirement but are the delayed payment of benefits earned before retirement.

(j) The pension board may make any change in this Act to the extent that the change is necessary to ensure compliance with the qualification requirements of Section 401, Internal Revenue Code of 1986, as amended, or any other federal law.

Sec. 24. EXCESS BENEFIT PLAN. (a) A separate, nonqualified, unfunded excess benefit plan is reenacted and continued outside the pension fund.

(b) In this section:

(1) "Excess benefit participant" means any retiree whose retirement benefits, as determined on the basis of all qualified plans without regard to the limitations provided by Section 23 of this Act and comparable provisions of other qualified plans, would exceed the maximum benefit permitted under Section 415, Internal Revenue Code of 1986, as amended.

(2) "Excess benefit plan" means the separate, nonqualified, unfunded excess benefit plan that is continued under this section, that was created under the predecessor system for the benefit of eligible members, as amended or restated from time to time, and that

is intended to be a qualified governmental excess benefit arrangement within the meaning of Section 415(m), Internal Revenue Code of 1986, as amended.

(3) "Maximum benefit" means the retirement benefit a retiree and the surviving spouse or dependent child of a retiree or deceased member or retiree are eligible to receive from all qualified plans in any month after giving effect to Section 23 of this Act and any similar provision of any other qualified plan designed to conform to Section 415, Internal Revenue Code of 1986, as amended.

(4) "Qualified plan" means the fund and any other plan that is maintained by the city for the exclusive benefit of some or all of the members of the fund and that has been found by the Internal Revenue Service to be qualified or has been treated by the city as a qualified plan under Section 401, Internal Revenue Code of 1986, as amended.

(5) "Unrestricted benefit" means the monthly retirement benefit a retiree and the surviving spouse and dependent child of a retiree or deceased member or retiree would have received under the terms of all qualified plans, except for the limitations provided by Section 23 of this Act and any similar provision of any other qualified plan designed to conform to Section 415, Internal Revenue Code of 1986, as amended.

(c) An excess benefit participant who is receiving benefits from the pension fund is eligible for a monthly benefit under the excess benefit plan in an amount equal to the lesser of:

(1) the member's unrestricted benefit less the maximum benefit; or

(2) the amount by which the member's monthly benefit from the pension fund has been reduced because of the limitations provided by Section 415, Internal Revenue Code of 1986, as amended.

(d) If a surviving spouse or dependent child is eligible for preretirement or postretirement survivor benefits under a qualified plan after the date of the death of an excess benefit participant, the surviving spouse or dependent child is eligible for a monthly benefit under the excess benefit plan equal to the benefit determined in accordance with this Act, without regard to the limitations provided by Section 23 of this Act or Section 415, Internal Revenue Code of 1986, as amended, less the maximum benefit.

(e) Any benefit to which a person is eligible under this section shall be paid at the same time and in the same manner as the

benefit that would have been paid from the pension fund if payment of the benefit from the pension fund had not been precluded by Section 23 of this Act. An excess benefit participant or a beneficiary of the participant may not, under any circumstances, elect to defer receipt of all or any part of a payment due under this section.

(f) The pension board shall administer the excess benefit plan, and the executive director shall carry out the business of the board with respect to the plan. Except as otherwise provided by this section, the rights, duties, and responsibilities of the pension board and the executive director are the same for the plan as for the pension fund.

(g) The consultants, independent auditors, attorneys, and actuaries selected to perform services for the pension fund shall perform services for the excess benefit plan, but their fees for services may not be paid by the pension fund. The actuary engaged to perform services for the pension fund shall advise the pension board of the amount of benefits that may not be provided from the pension fund solely by reason of the limitations provided by Section 415, Internal Revenue Code of 1986, as amended, and of the amount of employer contributions that will be made to the plan rather than to the pension fund.

(h) Contributions may not accumulate under the excess benefit plan to pay future retirement benefits. The executive director shall reduce each payment of employer contributions that would otherwise be made to the pension fund under Section 8A of this Act by the amount determined to be necessary to meet the requirements for retirement benefits under the plan, including reasonable administrative expenses, until the next payment of municipal contributions is expected to be made to the pension fund. The employer shall pay to the plan, from the withheld contributions, not earlier than the 30th day before the date each distribution of monthly retirement benefits is required to be made from the plan, the amount necessary to satisfy the obligation to pay monthly retirement benefits from the plan. The executive director shall satisfy the obligation of the plan to pay retirement benefits from the employer contributions transferred for that month.

(i) Employer contributions otherwise required to be made to the pension fund under Section 8A of this Act and to any other qualified plan shall be divided into those contributions required to pay retirement benefits under this section and those contributions paid

into and accumulated to pay the maximum benefits required under the qualified plan. Employer contributions made to provide retirement benefits under this section may not be commingled with the money of the pension fund or any other qualified plan.

(j) Benefits under this section are exempt from execution, attachment, garnishment, assignment, injunction, and any other writ in the same manner as retirement annuities under Section 22 of this Act and may not be paid to a person other than to the person who would have received the benefits from the pension fund except for the limitations provided by Section 23 of this Act.

Sec. 25. EMPLOYEES ON RETIREMENT WHEN ACT TAKES EFFECT. (a) Any person receiving a retirement benefit from the predecessor system immediately before the effective date of this Act shall continue to receive the same benefit amount the person was entitled to receive under the predecessor system.

(b) This Act does not change the status of any former member receiving a pension, or who is eligible to receive a pension, from the city or the pension system under the predecessor system, unless otherwise expressly provided by this Act.

Sec. 26. CONFIDENTIAL INFORMATION. (a) Records that are in the custody of the pension system concerning an individual member, deferred participant, retiree, eligible survivor, beneficiary, or alternate payee are not public information under Chapter 552, Government Code, and may not be disclosed in a form identifiable to a specific individual unless:

(1) the information is disclosed to:

(A) the individual or the individual's attorney, guardian, executor, administrator, or conservator, or another person who the executive director determines is acting in the interest of the individual or the individual's estate;

(B) a spouse or former spouse of the individual and the executive director determines that the information is relevant to the spouse's or former spouse's interest in a member's accounts or benefits or other amounts payable by the pension system;

(C) a governmental official or employee and the executive director determines that disclosure of the information requested is reasonably necessary to the performance of the duties of the official or employee; or

(D) a person authorized by the individual in writing to receive the information; or

(2) the information is disclosed under a subpoena and the executive director determines that the individual will have a reasonable opportunity to contest the subpoena.

(b) This section does not prevent the disclosure of the status or identity of an individual as a member, former member, deferred participant, retiree, deceased participant, eligible survivor, beneficiary, or alternate payee of the pension system.

(c) The executive director may designate other employees of the pension system to make the necessary determinations under Subsection (a) of this section.

(d) A determination and disclosure under Subsection (a) of this section does not require notice to the individual member, deferred participant, retiree, eligible survivor, beneficiary, or alternate payee.

Sec. 27. POWER OF ATTORNEY. (a) A person eligible for payment of a pension or other benefits administered by the pension system may direct the pension system to treat as the authorized representative of the person concerning the disposition of the pension or other benefits an attorney-in-fact under a power of attorney that the pension system determines complies with Subchapters A and B, Chapter 752, Estates Code.

(b) If the power of attorney under Subsection (a) of this section is revoked, the pension system is not liable for payments made to or actions taken at the request of the attorney-in-fact before the date the pension system receives written notice that the power of attorney has been revoked.

Sec. 28. PROPORTIONATE RETIREMENT PROGRAM WITH PARTICIPATING RETIREMENT SYSTEMS. (a) The pension board may establish a program of proportionate retirement benefits subject to the requirements of this section.

(b) In this section:

(1) "Combined service credit" means the combined sum of an eligible participant's service credit in each participating retirement system in which the participant has service credit and for which the total satisfies the length-of-service requirements for normal service retirement from that system at the eligible participant's attained age.

(2) "Eligible participant" means a person who is or has been a member of the pension system and who is actively employed by the city and covered by a participating retirement system at the time

of full participation by the three retirement systems established by Article 6243e.2(1), Revised Statutes, Article 6243g-4, Revised Statutes, a successor statute to either of those laws, and this Act. An eligible participant does not include any individual who:

(A) is in retirement or DROP status;

(B) is receiving a retirement pension; or

(C) is in a probationary or trainee firefighter or police officer position.

(3) "Full participation" means that a retirement system has met the requirements of a participating retirement system.

(4) "Maximum benefit" means the maximum total amount of benefits payable to an eligible participant who has used combined service credit to qualify for benefits from a participating retirement system, which is 90 percent of the participant's average monthly compensation at the time the participant ceases employment in a position covered by the pension system.

(5) "Participating retirement system" means a retirement system that is established by Article 6243e.2(1), Revised Statutes, Article 6243g-4, Revised Statutes, a successor statute to either of those laws, or this Act and that recognizes and allows the use of combined service credit and disability determinations to provide proportionate retirement benefits in its system for an eligible participant under the provisions of this Act.

(6) "Service credit" means service that is credited by the rules of a participating retirement system and that may be used to meet length-of-service requirements for service retirement in the system, except that service credit that would otherwise be allowed by more than one participating retirement system for the same service period is counted only once in determining the amount of a person's combined service credit and applies as service credit only in the participating retirement system in which the person first established the service credit.

(c) Participation by the pension system in the proportionate retirement program is voluntary. The pension board may elect to participate in the proportionate retirement program by adopting a resolution. If a resolution is adopted, the pension board shall notify the other participating retirement systems of the election. The effective date of participation in the proportionate retirement program for which an election is made is the first day of the third month after the month in which notice is given. Participation in the

proportionate retirement program by the pension system may be terminated for any reason by adoption of a pension board resolution, except that the proportionate retirement program will be continued by the pension system for eligible participants who are actively employed at the time of the termination and who remain actively employed. On adoption of a resolution of termination, the pension board shall notify the other participating retirement systems of the termination. The effective date of termination from the proportionate retirement program is the first day of the month following the month in which notice of termination is given.

(d) An eligible participant's combined service credit may be used only for determining eligibility for a normal retirement pension under this Act and may not be used in determining eligibility for DROP participation, a disability pension, survivor benefits, or any type of benefit other than a normal retirement pension, nor may combined service credit be used in determining the amount of any type of pension or benefit. The amount of a pension or benefit payable by the pension system is determined according to, and in the manner prescribed by, this Act and the rules established by the pension board and is based solely on an eligible participant's service credit in the pension system and allowable maximum benefit. The pension board has sole responsibility and discretion to determine the eligibility of eligible participants for benefits, including whether sufficient combined service credit exists to qualify eligible participants for proportionate retirement benefits from the pension system and the amount and duration of proportionate retirement benefits payable by the pension system.

(e) A person who withdraws pension contributions from a participating retirement system ceases to be a member of that participating retirement system. Membership and service credit for which contributions were withdrawn or otherwise forfeited may be reestablished under the statutes and rules governing that system. To be counted as combined service credit, all service in a participating retirement system for which the person withdrew contributions or that was otherwise forfeited must be reinstated in accordance with the statutes and rules applicable to that system. A lump-sum distribution is governed by the statutes and rules applicable to the particular retirement system that distributed the lump-sum payment.

(f) A person who has service credit in another participating retirement system for which the person is receiving or may become

eligible to receive a benefit is not eligible to vote in a pension board election or hold a position on the pension board.

(g) The pension board shall make determinations regarding an eligible participant's combined service credit based on the certified records of a participating retirement system, including the pension system, and of the city.

(h) The provisions of Section 17 of this Act relating to termination of employment do not apply to an eligible participant to the extent the participant is separated from service covered by the pension system during a period for which the participant earns service credit in another participating retirement system for service performed for the city in an amount sufficient to meet the length-of-service requirement, using combined service credit, for a retirement benefit from the participating retirement system.

(i) A proportionate retirement benefit may be paid by the pension system under the proportionate retirement program to an eligible participant who fulfills the requirements for receiving a proportionate retirement benefit in the pension system using combined service credit only if the participant is eligible to receive and has applied for proportionate retirement benefits from the applicable other participating retirement systems. An eligible participant may not become eligible to receive a proportionate retirement benefit from the pension system while employed in a position covered by the pension system.

(j) The pension system is governed solely by its own statutory provisions, policies, and procedures relating to disability benefit determinations for members who apply for a disability pension from the pension system, except that the pension system shall pay a proportionate amount of the ordinary disability benefit attributable to the service credited under the pension system, based on the schedule of benefits in effect under this Act or Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), as applicable, on the eligible participant's last day of credited service as a member in the pension system if:

(1) the eligible participant has combined service credit from any other participating retirement system in addition to the pension system;

(2) the eligible participant files for a disability pension for the first time as a member of the other participating retirement system;

(3) the eligible participant is otherwise eligible for a disability pension in both participating retirement systems;

(4) the eligible participant receives a determination from the pension board of trustees of the other participating pension system that the person has a disability that is of a type recognized by the pension system; and

(5) the other participating retirement system grants the disability pension.

(k) If the disability is determined to be service-related, the pension system shall pay only the ordinary disability benefit amount. The pension board has the right to require examinations, reports, and any other information permitted under this Act for the administration and payment of disability benefits and the right to reduce, suspend, or terminate a benefit accordingly. The benefit allowed under this subsection and Subsection (j) of this section is payable only if the other participating retirement systems authorize and pay a disability benefit under the same circumstances as provided by this subsection. A person who is receiving a disability benefit from a participating retirement system is not eligible for a disability pension under this Act, except as provided by this subsection and Subsection (j) of this section.

(l) Creditable military service, if any, will be credited in the pension system only as provided by this Act and only if the service is not credited in any other participating retirement system.

(m) If the pension board elects to participate in the proportionate retirement program under this section, the pension board shall adopt rules for implementing and administering the proportionate retirement program.

(n) A person may not receive a benefit under this section in an amount that is greater than the amount of the benefits accrued by the person in the absence of this section. A survivor benefit otherwise payable under Section 14(c) of this Act on behalf of a person who has used combined service credit to qualify for benefits from at least one participating retirement system shall be computed and payable as provided by Section 14(b) of this Act.

Acts 2001, 77th Leg., ch. 88, Sec. 1 to 28, eff. May 11, 2001. Sec. 2(c), (j) amended by Acts 2003, 78th Leg., ch. 40, Sec. 1, eff. May 15, 2003; Sec. 3(n) added by Acts 2003, 78th Leg., ch. 40, Sec. 2, eff. May 15, 2003; Sec. 15 heading amended by Acts 2003, 78th

Leg., ch. 40, Sec. 3, eff. May 15, 2003; Sec. 15(d) added by Acts 2003, 78th Leg., ch. 40, Sec. 4, eff. May 15, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.01, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.02, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.03, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.04, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.05, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.06, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.07, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.08, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch.320 (S.B. 2190), Sec. 3.09, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.10, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.11, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.12, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.13, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.14, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.15, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.16, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.17, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.18, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.19, eff.

July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.20, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.21, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.22, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.23, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 320 (S.B. 2190), Sec. 3.24, eff. July 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.063, eff. September 1, 2017.

Art. 6243h-2. BOARDS OF TRUSTEES OF MUNICIPAL UTILITIES OR PROPERTY; APPLICATION OF MUNICIPAL RETIREMENT SYSTEM.

Sec. 1. No pension or retirement benefit plan or system for employees of any Texas municipality, whether provided for by general or special law, city charter, or city ordinance, shall become or be made applicable to employees of any Board of Trustees created or appointed in pursuance of Article 1115, Revised Statutes, or any similar law providing for a Board of Trustees to administer municipal utilities or properties, unless and until such pension or retirement benefit plan or system has been approved and adopted by the Board of Trustees employing such employees and such Board of Trustees has made provision for the payment out of the revenues of the utility systems or its properties of the necessary payments to be made as the employer's contribution to such pension or retirement benefit plan or system.

Sec. 2. Any plan or system providing for pensions or retirement benefits which may have heretofore been adopted or may hereafter be adopted by any such Board of Trustees may be applied to the employees of such Board of Trustees independently of and to the exclusion of any plan or system applicable to or affecting other employees of the municipality.

Acts 1951, 52nd Leg., p. 24, ch. 17.

Art. 6243i. UNITARY RETIREMENT SYSTEM FOR CERTAIN MUNICIPALITIES

PART 1. GENERAL PROVISIONS

Sec. 1.01. APPLICABILITY. This article applies only to a municipality with a population of 500,000 or more that on January 1, 2007, has a single unitary public retirement system established by municipal ordinance for employees of all departments of the municipality.

Sec. 1.02. DEFINITIONS. In this article:

(1) "Administrative rules" means the rules adopted to govern a public retirement system, including rules regarding the participation in, contributions to, and benefits from the public retirement system.

(2) "Board of trustees" means the persons elected or appointed to administer the public retirement system.

(3) "Governing body" means the governing body of a municipality to which this article applies.

(4) "Participating member" means a person who makes contributions to the public retirement system as an employee of a municipality to which this article applies.

(5) "Participating retiree" means a person who receives or who is eligible to receive a service retirement annuity from the retirement fund.

(6) "Pension office" means the administrative office of the public retirement system.

(7) "Public retirement system" means a continuing, organized program or plan of service retirement, disability retirement, or death benefits for employees of a municipality to which this article applies but does not include:

(A) a program for which benefits are administered by a life insurance company;

(B) a program providing only workers' compensation benefits;

(C) a program administered by the federal government;

(D) an individual retirement account or individual retirement annuity within the meaning of Section 408, or a retirement bond within the meaning of Section 409, of the Internal Revenue Code of 1986;

(E) a plan described by Section 401(d) of the Internal Revenue Code of 1986;

(F) an individual account plan consisting of an annuity contract described by Section 403(b) of the Internal Revenue Code of 1986; or

(G) an eligible state deferred compensation plan described by Section 457(b) of the Internal Revenue Code of 1986.

(8) "Retirement fund" means the trust fund established by or in conjunction with the public retirement system for the purpose of holding assets to be used to provide benefits payable by the public retirement system.

(9) "Rule amendment" includes any amendment of, repeal of, addition to, deletion of, modification of, or change to an administrative rule.

(10) "Survivor" means a person, including the surviving spouse or dependent, who receives survivor benefits from a retirement fund.

(11) "Vested" means the accrued right of a participating member who has met the age and length-of-service requirements for service retirement required by the public retirement system. A member whose retirement rights are vested may withdraw from employment with the municipality, leave the member's accumulated contributions on deposit with the public retirement system, and begin to receive the member's service retirement annuity.

PART 2. MEMBERSHIP

Sec. 2.01. GENERAL MEMBERSHIP REQUIREMENT. (a) Except as otherwise provided by administrative rule, municipal ordinance, or this section, a person becomes a participating member of the public retirement system on the date of the person's employment by the municipality.

(b) A person employed by the municipality is not eligible to be a participating member if the person is:

(1) an independent contractor or an employee of an independent contractor doing work for the municipality;

(2) an elected officer or a nonsalaried, appointed member of an administrative board or commission of the municipality, except an employee who serves as a member of the board or commission;

(3) an employee serving on a part-time basis of less than one-half the time required to serve as a full-time employee;

(4) an employee who is paid in part by the municipality and in part by a county, state, or other governmental agency; or

(5) a temporary employee, as determined by the records of

the municipality, on the payroll of the municipality.

(c) A person may appeal a determination regarding the person's eligibility to be a participating member to the board of trustees. The board's decision regarding eligibility is final.

PART 3. CREDITABLE SERVICE

Sec. 3.01. TYPES OF CREDITABLE SERVICE. The board of trustees by rule shall establish the types of service for which a participating member earns credit.

Sec. 3.02. BENEFIT ELIGIBILITY BASED ON CREDITED SERVICE. A participating member's eligibility to receive a service retirement benefit is based on credited service at the time of retirement.

PART 4. BENEFITS

Sec. 4.01. TYPES OF BENEFITS. The types and calculation of benefits provided by the public retirement system are determined in accordance with applicable laws, municipal ordinances, and administrative rules.

Sec. 4.02. AMENDMENTS INCREASING BENEFITS. Before taking effect, any amendment to the administrative rules proposed by the board of trustees that increases the benefits provided by the public retirement system must be reviewed and approved by the governing body.

Sec. 4.03. AMENDMENTS REDUCING BENEFITS. (a) Only the governing body may adopt an amendment to the administrative rules that reduces a benefit provided by the public retirement system.

(b) At least 90 days before the date the governing body is scheduled to vote on an amendment to the administrative rules that would reduce a benefit provided by the public retirement system, the governing body must give notice to the board of trustees of the governing body's intention to consider and vote on the amendment.

PART 5. ADMINISTRATION

Sec. 5.01. COMPOSITION OF BOARD OF TRUSTEES. (a) The board of trustees is composed of 13 members.

(b) Each of the following groups of participating members shall elect one vested, participating member from their respective group to serve as a member of the board of trustees:

(1) police officers; and

(2) firefighters.

(c) The group of participating members who are general employees of the municipality and who are not employed as police officers or firefighters shall elect two vested, participating

members from the group to serve as members of the board of trustees.

(d) Each of the following groups of participating retirees shall elect one participating retiree from their respective group to serve as a member of the board of trustees:

(1) retired police officers;

(2) retired firefighters; and

(3) other retired general employees of the municipality who did not retire from service as a police officer or firefighter.

(e) The mayor shall nominate and the governing body shall confirm, by majority vote, five residents of the municipality to serve as members of the board of trustees. A person appointed under this subsection may not be a member of the governing body.

(f) The governing body shall designate the chief financial officer of the municipality to serve as a member of the board of trustees.

(g) Members of the board of trustees hold office for terms of two years.

Sec. 5.02. BOARD POWERS AND DUTIES. (a) The board of trustees shall administer the public retirement system, including the retirement fund of the public retirement system.

(b) The board of trustees may adopt amendments to the administrative rules in accordance with Sections 5.06, 5.07, 5.09, and 5.10 of this article.

Sec. 5.03. BOARD CHAIR. The board of trustees shall elect a chair from the membership of the board.

Sec. 5.04. QUORUM; VOTING. (a) Each member of the board of trustees is entitled to one vote.

(b) Except as provided by Subsection (c) of this section, seven members of the board of trustees constitute a quorum to transact the business of the board.

(c) In the event of a vacancy on the board of trustees, the number of members required to constitute a quorum is reduced by the number of vacancies on the board of trustees.

Sec. 5.05. QUALIFIED ACTUARY; ACTUARIAL ASSUMPTIONS. (a) The board of trustees may employ a qualified actuary.

(b) To be a qualified actuary, an actuary must be:

(1) a fellow of the Society of Actuaries; or

(2) a member of the American Academy of Actuaries.

(c) At least 30 days before the date the board of trustees adopts actuarial assumptions to be used by the public retirement

system, the board must submit to the governing body a detailed report regarding the proposed actuarial assumptions. The report must include the fiscal impact of the proposed actuarial assumptions on the public retirement system.

Sec. 5.06. RULE AMENDMENTS ADOPTED BY BOARD OF TRUSTEES. (a) Except as provided by Sections 4.03, 5.07, 5.09, and 5.10 of this article and subject to Section 4.02 of this article, the board of trustees may adopt amendments to the administrative rules if:

(1) a qualified actuary performs an actuarial analysis of the fiscal impact of the proposed amendment and determines that the amendment will not impact the actuarial soundness of the retirement fund;

(2) the proposed amendment is placed on the agenda of the board of trustees for at least two consecutive meetings of the board that are not less than 30 days apart for the purpose of giving participating members an opportunity to comment on the proposed amendment; and

(3) the proposed amendment is approved by a majority vote of the full membership of the board of trustees.

(b) An amendment to the administrative rules adopted in accordance with this section becomes effective immediately unless otherwise provided by the amendment.

Sec. 5.07. AMENDMENTS CONCERNING CONTRIBUTIONS BY MUNICIPALITY. (a) An amendment to the administrative rules governing municipal contributions, including an amendment to the rate or manner of making contributions, may be made only if:

(1) a qualified actuary performs an actuarial analysis of the fiscal impact of the proposed amendment;

(2) the board of trustees or the governing body, by majority vote, calls a special election of all participating members to approve the amendment;

(3) the amendment is approved by a majority of the participating members eligible to vote in the special election; and

(4) the amendment is approved by a majority vote of:

(A) the board of trustees, if the governing body called the special election under Subdivision (2) of this subsection; or

(B) the governing body, if the board of trustees called the special election under Subdivision (2) of this subsection.

(b) The board of trustees or the governing body, as applicable, shall approve or reject the proposed amendment under Subsection

(a)(4) of this section by the 90th day after the date the votes of the special election are canvassed.

(c) The pension office shall conduct a special election under Subsection (a) of this section by secret ballot. The board of trustees shall canvass the vote.

(d) A person who is a participating member on the date of the special election is eligible to vote in the special election.

(e) Unless otherwise provided by the proposed amendment, an amendment to the administrative rules becomes effective on approval by the board of trustees or the governing body, as appropriate, under Subsection (a)(4) of this section.

(f) Notwithstanding Subsections (a) through (e) of this section, only the governing body may adopt an amendment to the administrative rules that increases municipal contributions.

Sec. 5.08. AMENDMENTS BY GOVERNING BODY IN EVENT OF FISCAL EMERGENCY. (a) Notwithstanding Section 5.07 of this article, in the event a municipality to which this article applies has a fiscal emergency that requires an amendment to the administrative rules governing municipal contributions, the governing body may amend the administrative rules to address the emergency if the governing body:

(1) determines that the emergency exists and approves the proposed amendment by the unanimous vote of all members of the governing body; and

(2) provides written notice to the administrative head of the public retirement system at least five business days before the date the proposed amendment takes effect.

(b) On the 90th day after the date an amendment under this section takes effect and for each subsequent 90-day period while the amendment is in effect, the governing body shall determine whether the emergency continues to exist. If the governing body does not determine by a unanimous vote that the emergency continues to exist or if the governing body fails to vote on whether the emergency exists as required by this subsection, the amendment automatically expires on the date the vote is taken or on the date the vote should have been taken, as applicable.

Sec. 5.09. AMENDMENTS INCREASING CONTRIBUTIONS BY MEMBERS. (a) An amendment to the administrative rules that increases member contributions must be adopted in accordance with the procedures provided by Sections 5.07(a) through (e) of this article for adopting an amendment governing municipal contributions.

(b) Notwithstanding any other law, an amendment made in accordance with Subsection (a) of this section may require a participating member to contribute an amount that exceeds 10 percent of the compensation paid to the participating member for each payroll period.

Sec. 5.10. EMERGENCY, ROUTINE, OR STATUTORILY REQUIRED AMENDMENTS BY BOARD. (a) Unless an amendment to the administrative rules requires adoption in accordance with Section 5.07 or 5.09 of this article, the board of trustees may adopt emergency or routine amendments to the administrative rules or amendments that are required by federal or state law if the board of trustees by unanimous vote of the members present and voting:

(1) agrees that the proposed amendment is an emergency, routine, or statutorily required amendment; and

(2) approves the proposed amendment.

(b) An amendment adopted in accordance with this section is an automatic agenda item for the next regular meeting of the board of trustees and is subject to review or repeal by the board at that meeting.

Sec. 5.11. SEMIANNUAL MEETING OF BOARD AND GOVERNING BODY. At least once every six months, the board of trustees and the governing body shall meet to review the performance of the retirement fund and determine how to address the unfunded liabilities, if any, of the public retirement system.

Added by Acts 2007, 80th Leg., R.S., Ch. 1424 (S.B. 976), Sec. 1, eff. June 15, 2007.

Art. 6243j. POLICE OFFICERS' PENSION SYSTEM IN CITIES OF 50,000 TO 400,000.

Section 1. CREATION OF SYSTEM. There is hereby created in this State a Police Officers' Pension System in all cities having a population of not less than fifty thousand (50,000) inhabitants, nor more than four hundred thousand (400,000) inhabitants, according to the last preceding or any future Federal Census; provided, however, that once such pension system becomes operative in any city, any right or privilege accruing to any member thereunder shall be a vested right 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.

Sec. 2. DEFINITIONS. The following words and phrases when used in this Act are defined as follows, to wit:

(a) "Pension System" means the retirement, allowance, disability and pension system for employees of any Police Department coming within the provisions of this Act.

(b) "Member" means any and all employees in the Police Department who are engaged in law enforcement duties except janitors, car washers, cooks, and secretaries. Member may include reserve, special, or part-time officers as provided in Subsections (d), (e), and (f), Section 3 of this Act.

(c) "Pension Board" or "Board" means the Pension Board of the Pension System created under the Act for the purpose of administering the Pension System.

(d) "Service" means the services and work performed by a person employed in the Police Department.

(e) "Pension" means payments for life to the Police Department member out of the Pension Fund provided for herein upon becoming disabled or reaching retirement as provided herein and becoming eligible for such payments.

(f) "Separation from service" means cessation of work for the city in the Police Department, whether caused by death, discharge or resignation, or transfer to any other department of the city.

(g) The use of the masculine gender includes the feminine gender.

(h) "Prior-service credit" means credit for service rendered a city by an employee in the Police Department prior to his becoming a member of the Pension System.

(i) "Performance of duty" means the duties usually performed by a policeman during his regular working hours and at other times when he is called upon to perform emergency duties within the regular scope of his employment.

Sec. 3. MEMBERSHIP. (a) Any person except as herein provided, who is an employee of such city in the Police Department on the effective date hereof, shall be eligible for membership in the Pension System, and shall automatically become a member upon the

expiration of ninety (90) days from the effective date hereof, unless the employee has filed with the Pension Board his written election not to become a member, which shall constitute a waiver of all present and prospective benefits which otherwise would inure to him by participation in the System. But any member of the Police Department of such city, whose membership in the Pension System is contingent upon his own election and who elects not to participate, may later become a member provided he passes such medical examination as the Pension Board may require. If such employee becomes a member within six (6) months after the effective date of this Act, the employee shall be eligible for prior-service credit, but if he does not become a member within such period, he shall not be eligible for prior-service credit. Written notice shall be given each and every member of the Police Department eligible for membership in the Pension System by the Secretary of the Pension Board within sixty (60) days from the passage of this Act informing him of the terms and provisions of this paragraph.

(b) Any person who hereafter becomes an employee of such city in the Police Department after the passage of this Act shall automatically become a member of the Pension System as a condition of his employment, and he will be required to sign a letter making application for Pension benefits.

(c) Part-time, seasonal, or other temporary employees shall not become, nor be eligible as, members of the Pension System except as provided in Subsections (d), (e), and (f).

(d) A city that has adopted the Pension System in this Act may make reserve, special, or part-time officers eligible as members of the Pension System by vote of the city's governing body, or the city's governing body may call an election to submit the question to the qualified voters of the city.

(e) If a special election is called, the election must be advertised by publication in at least one newspaper of general circulation in the city once each week for four consecutive weeks. The question shall be submitted to the qualified voters as follows:

"FOR: Including reserve, special, or part-time officers in the Police Pension System."

"AGAINST: Including reserve, special, or part-time officers in the Police Pension System."

(f) A city that adopts the Pension System in this Act may include reserve, special, or part-time officers in the Pension System

by vote of the city's governing body, by calling a special election as provided in Subsection (e) of this Section, or by joining the question of whether or not to include those officers on the ballot which submits the proposed Police Pension System to the city's qualified voters as provided in Section 25 of this Act.

Sec. 4. PENSION BOARD. (a) There is hereby created in any city within this Act a Pension Board for the Police Officers' Pension System. Said Board is hereby vested with the general administration, management and control of the Pension System herein established for said city.

(b) The Board shall be composed of seven (7) members, as follows:

(1) The Mayor, to serve for the term of office to which he was elected;

(2) The Chief of Police, to serve until his successor is qualified;

(3) The City Treasurer, to serve until his successor is qualified;

(4) Three (3) active policemen who shall be selected by a majority vote of the members of the Pension System; said policemen members shall serve for a period of two (2) years and until their successors are elected and qualified. Vacancies occurring by reason of expiration of term of office, death, resignation or removal shall be filled by an election by a majority vote of the members of said Pension System;

(5) One (1) legally qualified taxpaying voter of the city, who has been a resident thereof for the preceding three (3) years; such member, being neither officer nor employee of the city, shall be chosen by the other six (6) members of the Board, and he shall serve for a period of two (2) years and until his successor is selected and qualified.

Said Board, as herein provided, shall be selected and organized upon the passage of this Act and shall hold its office until the next general election in such city for municipal officers, at which time a permanent Board shall be selected, as herein provided. The said Board shall organize by choosing one (1) member as Chairman; one (1) member as Vice-Chairman; and one (1) member as Secretary. Beginning with the first day of January, 1952, and annually thereafter, the Board shall elect its Chairman, Vice-Chairman and Secretary for the ensuing year.

(c) Each member of the Pension Board within ten (10) days after his appointment and election shall take an oath of office that he will diligently and honestly administer the affairs of the Pension System and that he will not knowingly violate, or willingly permit to be violated, any of the provisions of this law.

(d) Pursuant to the powers granted under the charter of such city, the mayor shall appoint one or more employees whose positions and salaries shall be fixed by the governing body of such city and who, acting under direction of the Pension Board, shall keep all of the records of and perform all of the clerical services for the Pension System. The salaries of such employees shall be paid by the city.

(e) Five (5) members of the Board shall constitute a quorum, and a majority vote of those members present shall be necessary for a decision of said Board.

(f) No moneys shall be paid out of the Pension System Fund except by warrant, check, or draft signed by the Treasurer and countersigned by either the Chairman or Secretary, upon an order by said Pension Board duly entered in the minutes.

(g) The Pension Board shall determine the prior service to be credited to each present employee of the Police Department who becomes a member of the Pension System. The Board shall rely upon the personnel records of such city in determining such prior-service credit. After obtaining the necessary information such Board shall furnish each member of the Pension System a certificate showing all prior-service credits authorized and credited to such member. Such member may, within one (1) year from the date of issuance or modification of such certificate, request the board to modify or change his prior-service certificate, otherwise such certificate shall be final and conclusive for retirement purposes as to such service.

Sec. 5. TREASURER. The City Treasurer is hereby designated as the Treasurer of said Pension System Fund for said city Police Officers' Pension System, and his official bond to said city shall operate to cover his position as Treasurer of such Pension System Fund and his sureties shall be liable in connection with the Treasurer's actions pertaining to such Fund as fully as they are liable under the terms of said bond for the other actions and conduct of said Treasurer. All moneys of every kind and character collected or to be collected for said Pension System shall be paid over to the

said Treasurer and shall be administered and paid out only in accordance with the provisions of this Act.

Sec. 6. PAYMENTS BY MEMBERS. Commencing with the first day of the month after the expiration of ninety (90) days from the passage of this Act, each member of the Pension System shall pay monthly into the Pension System Fund not less than four per cent (4%) nor more than seven per cent (7%) of his statutory minimum and longevity pay. Subject to this limitation, the Pension Board shall set the amount that each member shall pay into said Pension System Fund. Said payments into the Pension System Fund shall be effected by the city deducting the amount to be contributed by each member of said Pension System from his wages earned. Said deduction shall be paid into the Pension System Fund by the city.

Sec. 7. PAYMENTS INTO FUND BY CITY. In addition to the payments in the next preceding Section such city shall pay monthly into such Pension System Fund, from the general or other appropriate fund of any such city, an amount equal to the total sum paid into such Fund by salary deductions of members as set out in the next preceding Section.

Sec. 8. DEPLETION OF FUND; REDUCTION OF BENEFITS. In the event the Pension System Fund becomes seriously depleted, in the opinion of the Pension Board, said Pension Board may proportionately and temporarily reduce the benefits of all pensioners and beneficiaries, but such reduction of benefits shall continue only for such time as such depleted condition continues to exist, and after such time of depletion has ceased to exist and the Pension Board finds said Pension System Fund is in condition to warrant, it shall thereafter restore the benefits and resume payment of all pensioners and beneficiaries as though such preceding reductions had not occurred.

Sec. 9. INVESTMENT OF SURPLUS. Whenever in the opinion of the said Pension Board there is on hand in said Pension System Fund a surplus over and above a reasonably safe amount to take care of current demands upon such funds, such surplus, or so much thereof as in the judgment of the said Pension Board is deemed proper, may be invested in bonds or other interest bearing obligations and securities of the United States, the State of Texas or any city or any county.

Sec. 10. TRANSFER OF PRO RATA SHARE OF EXISTING FUND. Immediately upon this Act becoming a law, there shall be transferred to the Police Officers' Pension System the prorata share of any

pension fund heretofore existing to which police officers have contributed, including the prorata part of the fund paid by the city and all accumulated interest on the money which both the policemen and the city have heretofore contributed to the fund. It shall be the duty of the city official or officials responsible for said existing fund to make such transfer immediately.

Sec. 11. RETIREMENT PENSION. From and after the passage of this Act, any member of such Pension System who has been in the service of the city Police Department for a period of twenty-five (25) years shall receive from the Pension Board a pension certificate. Any person who holds a pension certificate and who has attained fifty-five (55) years of age shall be entitled to a monthly retirement pension equal to one half (1/2) of his statutory minimum pay plus one half (1/2) of his longevity pay, which he received when such certificate was awarded, each month for the rest of his life upon his retirement from the services of said city Police Department; provided, however, said monthly retirement pension shall not exceed the sum of One Hundred and Twenty-five Dollars ($125). However, when a member has served twenty-five (25) years or more in the Police Department and has attained the age of fifty-five (55) years, if he desires and if the physicians employed by the Pension Board agree that said member is physically fit to continue his active duties in the Police Department, he may continue such duties until he is not over sixty-five (65) years of age, and when he retires he will receive in addition to his monthly retirement pension set out above, a service bonus of One Dollar ($1) per month for each year of service over and above the amount per month payable if he had retired when he attained the age of fifty-five (55) years. It shall be compulsory for any member to retire from service upon attaining sixty-five (65) years of age; failure of any member of the Pension System to comply with this provision shall deprive the member or his dependents of any of the benefits provided for herein. If at the time of retirement such member has completed less than twenty-five (25) years of service, but more than twenty (20) years of service, his retirement pension shall be prorated. For example, if the employee has completed only twenty (20) years of service, his monthly pension would be four-fifths (4/5) of one half (1/2) of his statutory minimum pay and one half (1/2) his longevity pay. No member shall be required to make any payments into the Pension System Fund after he has been issued a pension certificate and who has retired from active

service in the Police Department. However, if he continues to work for the city Police Department after receiving a pension certificate, he shall continue his monthly payments into the Pension System Fund until he retires.

Sec. 12. PENSIONS TO WIDOW AND DEPENDENTS. If any member of the Police Department, who has been retired on allowance because of length of service or disability, shall thereafter die from any cause whatsoever or shall die from any cause whatsoever after he has become entitled to an allowance or pension certificate, or if while in service any member shall die from any cause growing out of or in consequence of the performance of his duty, and shall leave surviving a widow, a child or children under the age of eighteen (18) years or a dependent parent, said Board shall order paid a monthly allowance as follows: (a) To the widow so long as she remains a widow, sixty per cent (60%) of the pension per month that said member would have received if living and had retired with twenty-five (25) years of service, provided she shall have married such member prior to his retirement; (b) to the guardian of each child the sum of Six Dollars ($6) per month until such child reaches the age of eighteen (18) years or marries; (c) to the dependent parent, only in case no widow is entitled to allowance, the sum the widow would have received to be paid to but one parent and such parent to be determined by the Pension Board, and (d) in the event the widow dies after being entitled to her allowance as herein provided, or in the event there be no widow or dependent parent to receive such allowance, then the amount to be paid to the guardian of any dependent minor child or children under the age of eighteen (18) years shall be increased to the sum of Twelve Dollars ($12) per month for each said dependent minor child; and provided that such minor child under eighteen (18) years of age is unmarried. Allowance or benefits payable to any minor child shall cease when such child becomes eighteen (18) years of age or marries.

If a member of this Pension System is killed while performing his official duties, or dies from injuries received while performing such duties, the same benefits payable under the provisions of this Act to Pension System members who hold a pension certificate and have attained fifty-five (55) years of age, shall be paid to the persons designated in this Section.

Sec. 13. DEATH FROM NATURAL CAUSES OR CAUSES NOT COVERED. If a member of this Pension System dies from natural causes or from any

cause not covered under the provisions of this Act, the Pension Board shall pay to his estate all of the exact amount of money he has heretofore paid into the Pension System Fund in lieu of any other benefit provided for herein.

Sec. 14. RETIREMENT FOR DISABILITY. Any member of this Pension System who becomes incapacitated for performance of his duty by reason of any bodily injury received in, or illness caused by the performance of his duty, shall be retired upon presentation to the Pension Board of proof of the disability, and shall receive a retirement allowance equal to the percentage of his disability; for example, if he is fifty per cent (50%) incapacitated, he shall receive fifty per cent (50%) of the amount he would receive if retired after completion of twenty-five (25) years service per month during the remainder of his life or so long as he remains incapacitated. Provided, however, that if, at that time, he is qualified as to age and service for retirement, he shall receive the full amount of pension per month, or in the event he is past fifty-five (55) years of age and has more service than the minimum of twenty-five (25) years, and becomes incapacitated he shall receive the full amount of pension per month plus One Dollar ($1) for each additional year as his service bonus. When any member has been retired for permanent, total or partial disability, he shall be subject at all times to re-examination by the Pension Board and shall submit himself to such further examination as the Pension Board may require. If any member shall refuse to submit himself to any such examination, the Pension Board may, within its discretion, order said payment stopped. If a member who has been retired under the provisions of this Section should thereafter recover, so that in the opinion of the Pension Board he is able to perform the usual and customary duties formerly handled by him for said city in the Police Department, and such member is reinstated or tendered reinstatement to the position he held at the time of his retirement, then the Pension Board shall order such pension payment stopped. No person shall be retired either for total or partial disability unless there shall be filed with the Pension Board an application for pension benefit, at which time the Pension Board shall have him examined by no fewer than three (3) physicians, to be chosen by the Pension Board and to make their report to the Pension Board. If a policeman is hurt while working on a regular shift or tour of duty, or if he is at home or some other place and an emergency arises wherein he has to

perform the official duties of a policeman and is injured, he shall receive the benefits of this Act. In all cases where a policeman seeks benefits under this Section, it shall be the duty of the Pension Board to determine if the policeman did receive his injuries in the performance of his duty.

Sec. 15. COMPUTATION OF PERIOD OF SERVICE. In computing the twenty-five (25) years of service required for a retirement pension, twenty-five (25) years of continuous service shall be required; provided, however, that in case of interruption of less than two (2) years, credit shall be given for previous service if out of service more than two (2) years; no service prior to said interruption shall be counted, other than provided in Section 21.

Sec. 16. LEAVING EMPLOYMENT BEFORE BECOMING ELIGIBLE. When any member of such Pension System shall leave the employment of such Police Department except as specifically provided for herein, either voluntarily or involuntarily, before becoming eligible for a retirement or disability pension, he shall cease to be a member of such Pension System. When a member has left the service of the city Police Department as aforesaid and has therefore ceased to be a member of such Pension System, if such person shall thereafter be re-employed by the city Police Department he shall thereupon be reinstated as a member of such Pension System provided he is in good physical and mental condition as evidenced by a written certificate executed under oath by a duly licensed and practicing physician or physicians in the city, satisfactory to the Pension Board. Prior service of such member with such city Police Department shall not be counted toward his retirement pension unless such member returns to the service within two (2) years from his separation therefrom, and also shall, within six (6) months after his re-employment by the city in the Police Department, make a written application to the Pension Board for reinstatement in the Pension System.

Sec. 17. TRANSFERS FROM OTHER CITY DEPARTMENTS. No prior credit shall be allowed for service to any person who may hereafter transfer from some other department in the city to the Police Department. Policemen now serving who have heretofore transferred from some other city department may be given credit for such prior service by the Pension Board. The prior-service credits shall all be granted within sixty (60) days after this Act becomes law. For example, if one is transferred from some other department of the city to the city Police Department, sixty-one (61) days after this Act becomes law, such

person's service will be computed only from the day he enters the city Police Department.

Sec. 18. GIFTS AND DONATIONS. The Police Officers' Pension System may accept gifts and donations and such gifts or donations shall be added to the Pension Fund for the use of such System.

Sec. 19. LEGAL MATTERS. The city attorney of such city shall handle all legal matters for the Pension System which are referred to him by the Pension Board or city without additional compensation therefor. The Pension Board may, however, employ an attorney, or attorneys, to handle its legal matters and shall pay reasonable compensation therefor out of said Pension System Fund.

Sec. 20. EXEMPTION FROM LEGAL PROCESS; ASSIGNMENT OR TRANSFER. No portion of any such Pension System Fund, either before or after its order of disbursement by said Pension Board, and no amounts due or to become due any beneficiary or pensioner, under this Act, shall ever be held, seized, taken, subjected to, detained, or levied upon by virtue of any execution, attachment, garnishment, injunction, or other writ, and no order or decree, and no process or proceedings whatsoever, shall issue out of or by any court of this State for the payment of satisfaction, in whole or in part, out of said Pension System Fund, of any debt, damage, claim, demand, or judgment against any such members, pensioners, dependents, or any person whomsoever, nor shall such Pension System Fund or any part thereof, or any claim thereto, be directly or indirectly assigned or transferred. Any attempt to transfer or assign the same or any part thereof or any claim thereto shall be void. Said funds shall be sacredly held, kept, and disbursed for the purposes provided by this Act, and for no other purpose whatsoever.

Sec. 21. MILITARY SERVICE. Members of the Pension System engaged in active military service required because of a National Emergency shall not be required to make the monthly payments into the Pension System Fund provided for in this Act, nor shall they lose any previous years of service with the Police Department caused by such military service. Such military service shall count as continuous service in the Police Department, provided that when the member is discharged from the military service he shall immediately return to his former duties with the city Police Department. The city, however, shall be required to make its regular monthly payments into the Pension System Fund on each member while he is so engaged in such military service. In the event of death of a member of this Pension

System, either directly or indirectly caused from such military service, his widow or dependent parent or other dependents shall not be entitled to receive any benefits from this Fund.

Sec. 22. CIVIL ACTIONS. The Pension Board of any city as herein created and constituted shall have the power and authority to recover by civil action from any offending party, or from his bondsmen, if any, any moneys paid out or obtained from said Pension Fund through fraud, misrepresentation, theft, embezzlement, or misapplication, and may institute, conduct and maintain such action in the name of said Board for the use and benefit of such Fund.

Sec. 23. PARTIAL INVALIDITY. If any provision, section, part, subsection, sentence, clause, phrase, or paragraph of this Act be declared invalid or unconstitutional, the same shall not affect any other portion or provision hereof, and all other provisions shall remain valid and unaffected by such invalid portion, if any.

Sec. 24. FORMER EMPLOYEES NOW RECEIVING PENSION. Immediately upon this Act becoming a law, the former employees of any such Police Department who are now being paid a pension from a pension fund, shall hereafter be paid a monthly pension of One Hundred Dollars ($100) per month out of the Pension Fund provided for herein. Any such city shall have the right and option to pay such former employees any amount over and above those hereinabove provided for, but such additional payments, if any, shall be borne by such city and not the Pension Fund.

Sec. 25. ELECTION; ADOPTION WITHOUT ELECTION. The city is authorized to call an election to determine if the city desires to adopt this Act after a petition has been presented to the governing body of the city, signed by five per cent (5%) of the qualified voters of the city who voted in the last municipal election. Such election must be advertised by publication in at least one (1) newspaper of general circulation in said city once each week for four (4) consecutive weeks. The question shall be submitted to the qualified voters of the city at a special election to be held for such purpose at which all ballots shall have printed thereon:

"FOR: The proposed Police Pension System."

"AGAINST: The proposed Police Pension System."

No other issues shall be joined with the proposition submitted at this election on the same ballot except as provided in Subsection (f), Section 3 of this Act.

Nothing herein is to prevent the city governing body from

adopting the proposed pension plan without an election.

Sec. 26. WITHDRAWAL OF MONEYS; RETURN ON REINSTATEMENT. Any policeman who has been relieved from duty or voluntarily quits shall have the right to withdraw all moneys paid in by him into the Pension System. If he is reinstated in the Police Department with full seniority, he shall return to the Pension Fund the amount of money previously withdrawn when his services were terminated.

Acts 1951, 52nd Leg., p. 397, ch. 254. Amended by Acts 1977, 65th Leg., p. 1396, ch. 562, Sec. 1 to 5, eff. Aug. 29, 1977.

Art. 6243k. RETIREMENT, DISABILITY AND DEATH BENEFIT SYSTEMS FOR APPOINTIVE CITY OR TOWN EMPLOYEES. (a) An incorporated city or town may create a retirement, disability, and death benefit system for its appointive officers and employees if a majority of the qualified voters of the city or town voting on the proposition approve the creation at an election called for that purpose. Each member of the system shall contribute to the system an amount determined by the city or town, which, except as provided by Subsection (b), may not exceed 10 percent of the member's annual compensation paid by the city or town, and the city or town shall contribute for each member an amount that at least equals but is not more than twice the amount of the member's contribution. A member of a municipal system is eligible for disability benefits if he is disabled in the course of his employment with the city or town. A member is eligible for retirement benefits if he is 65 years old or older, or he is 60 years old but less than 65 years old and has been employed by the city or town for 25 years or more.

(b) Each member of a retirement, disability, and death benefit system provided under this section by a city or town shall contribute to the system an amount determined by the city or town that may exceed 10 percent of the annual compensation paid to the member by the city or town if the city or town:

(1) has a population of 500,000 or more; and

(2) is located in a county:

(A) that has a population of 1.4 million or more; and

(B) in which two or more cities or towns that each have a population of 300,000 or more are predominately located.

Acts 1975, 64th Leg., p. 1127, ch. 426, Sec. 2, eff. Sept. 1, 1975.

Amended by Acts 1981, 67th Leg., p. 2445, ch. 627, Sec. 1, eff. June 15, 1981.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1417 (H.B. 2870), Sec. 1, eff. September 1, 2007.

Art. 6243l. SEPARATE RETIREMENT SYSTEM FOR POLICE DEPARTMENT EMPLOYEES IN CITIES OF 250,000 OR MORE.

Section 1. The governing body of any city with a population of 250,000 or more, according to the last preceding federal census, may establish by ordinance a separate retirement system for employees of the police department notwithstanding any charter provisions of the city to the contrary.

Sec. 2. This Act does not apply to a city governed by:

(1) Chapter 4, Acts of the 43rd Legislature, 1st Called Session, 1933, as amended (Article 6243a, Vernon's Texas Civil Statutes);

(2) Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933, as amended (Article 6243b, Vernon's Texas Civil Statutes);

(3) Chapter 105, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6243f, Vernon's Texas Civil Statutes);

(4) Chapter 76, Acts of the 50th Legislature, 1947, as amended (Article 6243g-1, Vernon's Texas Civil Statutes); or

(5) Chapter 75, Acts of the 50th Legislature, 1947, as amended (Article 6243h, Vernon's Texas Civil Statutes).

Acts 1979, 66th Leg., p. 537, ch. 253, Sec. 1, eff. May 24, 1979.

Art. 6243m. CONTRIBUTIONS AND BENEFITS; CERTAIN MUNICIPAL RETIREMENT SYSTEMS OR DEATH BENEFIT PROGRAMS.

Section 1. An incorporated city or town that institutes after August 31, 1981, by charter, ordinance, or statute a program of continuing service retirement, disability retirement, or death benefits for any of its officers or employees shall require participating officers and employees to contribute a percentage of their salaries to the program during each payroll period. The city

or town also shall make contributions to the program during each payroll period. The ratio of municipal contributions to the aggregate contributions of officers and employees may not be less than one to one or more than two to one.

Sec. 2. For municipal retirement systems created after August 31, 1981, through charter, ordinance, or statute, benefits shall be ascertained by the system's actuary in relationship to contributions. The level of benefits shall never be in excess of the amount actuarially determined for the system to be financially sound. An actuary hired by a retirement system shall have at least five years of experience working with one or more public retirement systems and be a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the federal Employees Retirement Security Act of 1974.

Sec. 3. This Act does not apply to a program for which the only funding agency is a life insurance company, a program providing only workers' compensation benefits, or a program administered by a city or town as a member of the Texas Municipal Retirement System.

Acts 1981, 67th Leg., p. 2606, ch. 694, Sec. 1 to 3, eff. Sept. 1, 1981.

Art. 6243n. MUNICIPAL RETIREMENT SYSTEM IN MUNICIPALITIES OF 460,000 TO 500,000.

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 and less than 860,000.

(b) Any right or privilege accruing to any member of a retirement system established by this Act is a vested right according to the terms of this Act.

(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.

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

(1) "Accumulated deposits" means the amount standing to the

credit of a member derived from the deposits required to be made by the member to the retirement system improved annually by interest credited at a rate determined by the retirement board from time to time upon the advice of the retirement board's actuary and credited as of December 31 to amounts standing to the credit of the member on January 1 of the same calendar year.

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

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

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

(5) "Agency of the municipality" means any agency or instrumentality of the municipality or governmental or publicly owned legal entity created by the municipality, before or after the effective date of this Act, to perform or provide a public service or function and that employs at least one employee to provide services or accomplish its public purpose.

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

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

(8) "Average final compensation" means the average monthly compensation, as defined and limited by Subdivision (12) of this section, less overtime, incentive, and terminal pay, plus, (i) amounts picked up by the employer pursuant to Section 10(e) of this Act, and (ii) amounts that would be included in wages but for an election under Section 125(d), 132(f)(4), 402(e)(3), 402(h)(1)(B),

402(k), or 457(b) of the code, during, as applicable:

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

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

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

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

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

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

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

(12) "Compensation" means, with respect to any member, such member's wages, within the meaning of Section 3401(a) of the code (for purposes of income tax withholding at the source) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Section 3401(a)(2) of the code). Compensation in excess of the dollar limit under Section 401(a)(17) of the code shall be

disregarded in determining the compensation of any employee who first becomes a member in a year commencing after 1995. The dollar limitation shall be adjusted for cost of living increases as provided under Section 401(a)(17) of the code.

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

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

(15) "Current service annuity" means a series of equal monthly payments payable for the member's life after retirement for creditable service from funds of the retirement system equal to:

(A) for Group A members, one-twelfth of the product of 3.0 percent of a member's average final compensation multiplied by the number of months of creditable service; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) was previously a member of Group A;

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

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

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

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

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

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

(i) was previously a member of Group A;

(ii) ceased to be a member of the retirement

system;

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

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

(24) Repealed by Acts 1999, 76th Leg., ch. 834, Sec. 14, eff. Oct. 1, 1999.

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

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

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

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

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

(30) "Member" means any:

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

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

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

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

(32) "Normal retirement age" means:

(A) for members of Group A:

(i) age 62;

(ii) 55 years of age with 20 years of creditable service; or

(iii) 23 years of creditable service, regardless of years of age; and

(B) for members of Group B:

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

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

(33) "Normal retirement date" means:

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

(B) for members of Group B, the date the member reaches normal retirement age under Subdivision (32)(B) of this section.

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

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

(B) which for a person after January 1, 1941, includes redeemed membership service.

(35) "Prior service pension" means a series of equal monthly payments payable from funds of the retirement system for a member's life after retirement for prior service equal to one-twelfth of the product of 3.0 percent of the member's average monthly

earnings during a period of five years preceding January 1, 1941, multiplied by the number of months of prior service.

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

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

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

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

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

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

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

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

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

(45) "Year of creditable service" means a 12-month period of creditable service determined in accordance with uniform and

nondiscriminatory rules established by the retirement board.

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

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

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

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

Sec. 4. ADMINISTRATION. (a) The retirement board of the retirement system is hereby vested the power and responsibility for the proper and effective general administration, management, and operation of the retirement system for the exclusive benefit of its present and future members and beneficiaries.

(b) The retirement board consists of 11 members as follows:

(1) place one: one member of the governing body, designated by the governing body;

(2) place two: the city manager of the municipality or the manager's designee;

(3) places three through five: three qualified voters of the city who have been city residents for the preceding five years and who are not employees, former employees, or officers of an employer;

(4) places six through nine: four active-contributory members elected by the active-contributory members; and

(5) places ten and eleven: two retired members elected by the retired members.

(c)(1) The place one retirement board member serves at the pleasure of the governing body and until the governing body redesignates the place one member, or until the member is no longer able to serve because of death, resignation, termination of position as a member of the governing body, or disability. The governing body shall appoint a person to fill a vacancy in place one not later than the 90th day after the first date of the vacancy.

(2) In December of every second even-numbered year, the governing body shall appoint, to place three, one person meeting the qualifications for place three. In December of every second odd-numbered year, the governing body shall appoint, to place four, one

person meeting the qualifications for place four. In December of every second odd-numbered year, the retirement board shall appoint, to place five, one person meeting the qualifications for place five. Retirement board members holding places three through five each serve a four-year term beginning on January 1 of the year after their appointment, unless service is earlier terminated by the death, disability, resignation, or removal of that retirement board member or the retirement board member ceases to meet the qualifications of a citizen retirement board member as set forth in Section 4(b) of this Act. The governing body shall fill a vacancy in place three or four with a person meeting the qualifications for that place not later than the 90th day after the first date of the vacancy. If the governing body fails to appoint an eligible person to fill a vacancy in place three or four within the 90-day period, the retirement board may appoint a person meeting the qualifications for that place to fill the vacancy for the remainder of the unexpired term. The retirement board shall appoint a person meeting the qualifications for place five to fill a vacancy in place five for the remainder of the unexpired term.

(3) The places six through nine retirement board members each serve on the retirement board for a four-year term, unless service is earlier terminated by the death, resignation, termination of employment, disability, retirement, or removal of the retirement board member. The retirement board shall appoint an active-contributory member to fill a vacancy in each of places six through nine for the remainder of the unexpired term if the remainder of the unexpired term is 364 days or fewer. If the remainder of the unexpired term is 365 days or more, the vacancy shall be filled by the active-contributory members voting at a special election.

(4) The places ten and eleven retirement board members serve for a four-year term, unless that service is earlier terminated by the death, disability, resignation, or removal of the member. The retirement board shall appoint a retired member to fill a vacancy in place ten or eleven for the remainder of the unexpired term if the remainder of the unexpired term is 364 days or fewer. If the remainder of the unexpired term is 365 days or more, the vacancy shall be filled by the retired members voting at a special election.

(d) Members for places six through eleven shall be elected in accordance with Subsections (e)-(m) of this section.

(e) Only active-contributory members shall be eligible for

election for places six through nine. Only retired members shall be eligible for election for places ten and eleven. Not more than one active-contributory member shall be eligible for election from any one department or office or similar organizational unit that is established in the annual budget of an employer and is not part of any department.

(f) Members for places six through nine shall be elected to four-year staggered terms with the terms of two of such retirement board members beginning January 1 of each even-numbered year.

(g) Members for places ten and eleven shall be elected to four-year staggered terms. One such retirement board member shall be elected at an election held in every other even-numbered year with the term of such retirement board member beginning on January 1 of the following odd-numbered year.

(h) No later than the first day of October of each odd-numbered year, the retirement board shall appoint a nominating and election committee consisting of five committee members and two alternates, all of whom are active-contributory members of the retirement system. The nominating and election committee shall make one or more nominations for each active-contributory member vacancy and shall act as election judges. The nominating and election committee shall determine and certify that each such nominee and each candidate announcing for election is an active-contributory member and prepare the ballot containing the names of all certified active-contributory member candidates.

(i) No later than the first day of October of every second even-numbered year, the retirement board shall appoint a nominating and election committee consisting of five committee members and five alternates, all of whom are retired members of the retirement system. The nominating and election committee shall make one or more nominations for the retired member vacancy and shall act as election judges. The nominating and election committee shall determine and certify that each such nominee and each candidate announcing for election is a retired member and prepare the ballot containing the names of all certified retired member candidates.

(j) Each nominating and election committee shall publish a notice at least two weeks prior to the applicable election date, informing all active-contributory members or retired members, as applicable, of the names of the persons who have been certified as candidates.

(k) Elections for places six through nine shall be held in December of odd-numbered years. Elections for places 10 and 11 shall be held in December of every second even-numbered year. The candidates receiving the highest number of eligible votes shall be deemed elected. In case of a tie vote, selection shall be by lot drawn by an existing member of the retirement board at a meeting of the retirement board held after the election but before the first day of January of the year after the election.

(l) The applicable nominating and election committee shall canvass the returns, certify the results, and announce the official results of the election.

(m) The retirement board shall approve written procedures for the conduct of the election no later than August 1 of each year in which an election is held. The procedures may include comprehensive provisions prescribing the conduct of the election and early voting.

(n) Each member of the retirement board shall, within 30 days after appointment or election, take an oath of office that he or she will diligently and honestly administer the affairs of the retirement system and will not knowingly violate or willingly permit to be violated any law or statute applicable to the retirement system. All members of the retirement board serve without compensation.

(o) In January of each year, the retirement board shall elect from its membership a presiding officer and an assistant presiding officer for one calendar year terms.

(p) The retirement board shall hire a pension director as an employee of the retirement board. The retirement board shall establish, consistent with this Act, the duties of the pension director and shall assign the pension director a title. The pension director shall hire and may fire or suspend necessary staff members, and those staff members are employees of the retirement system. The pension director acting under the direction of the retirement board shall keep all of the records of the retirement system and a record of the proceedings of the retirement board. The pension director and each staff member shall receive such compensation as the retirement board may fix in each annual budget of the retirement system, or amendments to the budget, and that compensation shall be paid from the fund.

(q) Subject to this Act, the retirement board shall from time to time establish rules and regulations for the administration of the funds authorized to be created and for the transaction of the

retirement system's business. Each member of the retirement board is entitled to one vote. Six concurring votes are necessary for a decision by the retirement board at any meeting of the retirement board, and six members constitute a quorum. Each member will be required to serve on a committee of the retirement board. Any retirement board member who is absent from four consecutive regular monthly meetings of the retirement board shall be removed from the retirement board and replaced in accordance with the provisions of this section.

(r) The retirement board shall keep or cause to be kept in convenient form such data as are necessary for actuarial valuation of the fund of the retirement system and for checking the mortality, service, compensation, and payment experience of the system. Each employer shall provide to the retirement board records that are useful for the board's administration of the retirement system or the fund.

(s) The retirement board shall keep a record of all its proceedings, which shall be open to public inspection except as otherwise specifically provided or permitted by law, and shall publish annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the accumulated cash, securities and other assets of the system, and the last balance sheet showing the financial condition of the system as disclosed by the most recent actuarial valuation of the assets and liabilities of the retirement system.

(t) The retirement board shall have charge of and administer the fund as trustee of the fund, shall order payments from the fund in accordance with this Act, and may increase, under Section 10(g) of this Act, the benefits and allowances the board pays from the fund. If practicable, the retirement board shall collect underpayments and refund overpayments. The retirement board shall report annually to the members on the condition of the fund and the receipts and disbursements on account of the fund.

(u) Individual accounts shall be maintained for each member of the retirement system, showing the amount of the member's accumulated deposits. Annually a statement shall be given each member showing the total amount of that member's accumulated deposits. The board shall keep a record of the names and amounts paid to retired members, surviving spouses, and beneficiaries. The accounts of the retirement board and the retirement system shall be included in the annual

independent audit of the accounts of the system performed by a certified public accounting firm selected by the retirement board. One copy of the annual audit shall be provided to the governing body and to the board of each employer.

(v) The retirement board shall designate an actuary who shall be the technical advisor of the retirement board regarding the maintenance and operations of the fund authorized by the provisions of this Act and shall perform such other duties as may be required in connection therewith, but shall not be an investment advisor or fiduciary with respect to any investments of the fund. The actuary shall make periodic valuations of the assets and liabilities of the funds and other evaluations as requested by the retirement board.

(w) From time to time on the advice of the actuary and the direction of the retirement board, the actuary shall make an actuarial investigation of the mortality, service, and compensation experience of members, retired members, surviving spouses, and beneficiaries of the retirement system and shall make a valuation of the assets and liabilities of the funds of the system. Taking into account the result of such investigation and valuation, the retirement board shall adopt for the retirement system such mortality, service, and other actuarial tables or rates as are deemed necessary. On the basis of tables and rates adopted by the retirement board, the actuary shall make a valuation at least once every two years of the assets and liabilities of the funds of the retirement system.

(x) The retirement board may retain the services of one or more investment managers who shall have full authority to invest and manage the assets of the retirement system and the fund, as specified by contract in accordance with Subchapter C, Chapter 802, Government Code.

(y) The retirement board may retain the services of one or more investment consultants to monitor the investment performance of the investment managers and provide other investment-related services as requested by the retirement board.

(z) The retirement board may retain legal counsel as necessary in the judgment of the retirement board to advise, consult, assist and represent the retirement board and the system in and with respect to any legal matter, issue, cause or claim that comes before the retirement board or that may affect the retirement system or the operation of the fund.

(aa) Except as provided by Subsection (cc) of this section, the retirement board may adopt rules, policies, and procedures, correct any defect, supply any information, or reconcile any inconsistency as the retirement board considers necessary or advisable to carry out this Act. Further, the retirement board is authorized to adopt any amendment that modifies this Act to the extent necessary for the retirement system to be a qualified plan under the code.

(bb) This Act shall be construed and administered in a manner that will allow the retirement system's benefit plan to be a plan qualified under Section 401(a) of the code. The retirement board may adopt rules that modify the plan to the extent necessary for the retirement system to be a qualified plan and shall adopt rules to ensure that benefits paid to a retired member or to a beneficiary do not exceed the limits provided by Section 415 of the code. Rules adopted by the retirement board are part of the plan. The retirement board may adopt rules that establish a separate qualified excess benefit arrangement under Section 415(m) of the code to provide any benefits that would have been provided under the qualified plan except for the limits in Section 415 of the code.

(cc) Any procedure, discretionary act, interpretation, or construction by the retirement board must be done in a nondiscriminatory manner based on uniform principles consistently applied and must be consistent with this Act and with Section 401(a) of the code and its subsequent amendments.

(dd) The retirement board is authorized to administer oaths to any person providing testimony at any hearing or other proceeding of the retirement board. The retirement board may remove a retirement board member for malfeasance, after notice and a hearing, by a vote of six of its members.

Sec. 5. MEMBERSHIP. (a) Each regular full-time employee shall become an active-contributory member as a condition of employment and shall make the required deposits commencing with the first pay period in which the employee is compensated following the effective date of this Act. Unless on approved medical leave of absence or on leave to serve in the uniformed services, the employee shall make the deposits as long as the employee remains a regular full-time employee and shall remain a member of the system until the employee or the employee's beneficiary ceases to be entitled to any benefits from the retirement system. The membership for all new regular full-time employees shall commence on the date their

employment commences.

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

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

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

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

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

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

(c) A member becomes an active-contributory member immediately on resuming employment as a regular full-time employee or on returning from an approved medical leave of absence, as applicable. A member who resumes regular full-time employment is assigned to the group for which the member is qualified under Subdivisions (23A) and (23B), Section 2 of this Act.

(d) It shall be the duty of the retirement board to make a final determination of the membership group to which each person who becomes a member of the retirement system properly belongs. It shall be the duty of the chief administrative officer of each employer to submit to the retirement board a statement showing the name, position, compensation, duties, date of birth, length of employment, and other information regarding each employee of the employer the retirement board may require.

(e) Any person who has ceased to be a member and has received a distribution of the person's accumulated deposits may have the person's membership service in the original group in which the

membership service was earned reinstated if the person is reemployed as a regular full-time employee and deposits into the system the accumulated deposits withdrawn by that person, together with an interest payment equal to the amount withdrawn multiplied by an interest factor. The interest factor is equal to the annually compounded interest rate assumed to have been earned by the fund beginning with the month and year in which the person withdrew the person's accumulated deposits and ending with the month and year in which the deposit under this subsection is made. The interest rate assumed to have been earned by the fund for any period is equal to the interest rate credited for that period to the accumulated deposits of members, divided by 0.75.

(f) From time to time the retirement board, subject to the approval of the system's actuary, may elect to permit the reinstatement of membership service forfeited in accordance with the terms of this section.

Sec. 6. CREDITABLE SERVICE. (a) The retirement allowance of a member is based on the member's creditable service as of the member's actual retirement date.

(b) The retirement board shall determine by nondiscriminatory rules and regulations consistently applied, subject to the provisions of this Act, in case of absence, illness, or other temporary interruption in service as a regular full-time employee, the portion of each calendar year to be allowed as creditable service. No credit shall be allowed as creditable service for any period exceeding one month during which an employee was absent continuously without pay, except for an authorized leave of absence as provided in this Act. The retirement board shall verify the records for creditable service claims filed by the members of the retirement system, subject to the provisions of this Act and in accordance with such administrative rules and regulations as the retirement board may from time to time adopt.

(c)(1) Uniformed service creditable in the retirement system is any service required to be credited by the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), as amended, and certain federal duty service in the armed forces of the United States performed before the beginning of employment with the employer, other than service as a student at a service academy, as a member of the reserves, or any continuous active military service lasting less than 90 days. A member may use

uniformed service to establish creditable service subject to the conditions of Subdivisions (2)-(6) of this subsection.

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

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

(4) A member is not eligible to establish uniformed service

credit unless the member was released from active military duty under conditions other than dishonorable.

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

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

(d) At any time before the actual retirement date of a member, the employer of the member may purchase for the member additional creditable service that shall be credited to the member. The incremental cost of eligibility under this subsection shall be purchased by the employer at the full actuarial cost of the additional creditable service as determined by the retirement board acting on the advice of the actuary.

(e) At any time before a member's actual retirement date, the member may purchase noncontributory creditable service equal in amount to the period the member:

(1) was on verifiable workers' compensation leave due to an injury sustained in the course and scope of employment by an employer;

(2) was on an authorized leave of absence from an employer; or

(3) performed service for an employer in a position the service for which is not otherwise creditable in the retirement system.

(e-1) An active contributory member that is eligible for retirement may file a written application to convert to creditable service at retirement all or part of the member's sick leave accrued with the employer that is eligible for conversion. The application must be approved by the retirement board. The member may not convert sick leave for which the member is entitled to be paid by the employer. Sick leave hours may be converted in pay period increments

for the purpose of increasing creditable service that is used in the calculation of benefits. Sick leave hours may not be used to reach retirement eligibility. Both the employer and the member must make the equivalent amount of retirement contributions that would have been made had the sick hours been exercised and used as sick leave hours.

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

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

(2) in an amount that:

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

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

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

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

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

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

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

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

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

(ii) then purchasing the nonqualified permissive creditable service.

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

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

(g) In this section, "noncontributory creditable service" means creditable service for which an employer contribution is not made.

Sec. 7. SERVICE RETIREMENT AND WITHDRAWAL BENEFITS. (a)

Except as provided by Subsection (b) of this section, a member who retires on or after the member's normal retirement date for the group in which the member is enrolled, or a member of Group B eligible for early retirement who retires, and applies in writing for a retirement allowance shall receive the life annuity (modified cash refund) or the early retirement annuity to which the member is entitled. An annuity begins on the last day of the month after the month in which the member retired. Unless Section 8 of this Act applies, or the member is an early retirement eligible member of Group B, a member whose employment by the employer terminates before the member's normal retirement date is entitled to a distribution of the member's accumulated deposits in a single lump sum. On receiving that distribution, a member is not entitled to any other benefit under this Act. If a member has at least five years of creditable service and does not withdraw the member's accumulated deposits, the member is entitled to a life annuity (modified cash refund) beginning on the first day of the month after the month in which the member's normal retirement date occurs.

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

(b) A member who terminates employment with the employer and who has less than five years of creditable service is not entitled to a retirement allowance unless the member is eligible and participates in the proportionate retirement program under Chapter 803, Government Code.

(c) The amount of each retirement allowance and all other benefits payable under this statute shall be subject at all times to such adjustments as may be required to ensure actuarial soundness as may be approved by the actuary and adopted by the retirement board, except that annuities already accrued may not be reduced.

(d) Subject to the conditions, limitations, and restrictions set forth in this Act, the retirement board may once each December:

(1) authorize a cost of living adjustment (hereinafter referred to as the "adjustment") payment of which, once authorized, shall be added to the current monthly payment of all retirement annuities, pensions, or allowances of each retired member and beneficiary who became entitled to benefits on or before December 31 of the year before the year in which the adjustment is approved; or

(2) authorize a lump-sum additional benefit payment that shall be paid to each retired member or beneficiary receiving a retirement

annuity, pension, or allowance who became entitled to benefits on or before December 31 of the year before the year in which the additional payment is approved.

(e) Before December 31 of each year, the retirement board shall make a separate determination as to whether to authorize the payment of an adjustment or additional payment and the amount of the adjustment or additional payment, if any. In determining whether to authorize an adjustment or additional payment, the retirement board may consider the changes in the consumer price index over the preceding 12-month period, the actuarial experience of the fund, the investment experience of the fund, the amount of any prior or current adjustments or additional payments, and other factors that the retirement board and the actuary consider appropriate.

(f) In determining whether to authorize the payment and the amount of any adjustment or additional payment, the retirement board shall be governed by Subsections (g)-(i) of this section.

(g) Any determinations to authorize payment of any adjustment or additional payment amount must be based on the ability of the fund to pay the amount and may not be based on the individual needs of any particular retired members or beneficiaries.

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

(i) The amount of the adjustment or additional payment for each retired member or beneficiary:

(1) shall be a uniform percentage of the monthly payment being received by a member, or by a beneficiary by reason of a member, who was retired at least one year before the adjustment;

(2) may not exceed six percent of the monthly payment due the retired member or beneficiary before the adjustment if the payment is an adjustment;

(3) may not exceed an amount equal to the amount of the monthly payment being received by a member before the addition of any adjustment made during that year if the payment is an additional

payment; and

(4) for members who retired during the year in which the adjustment or additional payment is authorized, the adjustment or additional payment shall be prorated, and the increase for the first year in which the adjustment is being paid shall be prorated in the ratio that the number of completed months after the member's retirement in the year of the member's retirement bears to 12. After the first year the member is entitled to the full amount of any adjustment or additional payment without proration.

(j) Any adjustment payments or additional payment shall be in addition to the benefits to which a retired member or beneficiary is otherwise entitled under this Act.

(k) Any member who qualifies for retirement by reason of creditable service attained with one or more retirement programs participating in the proportionate retirement program established under Chapter 803, Government Code, shall be eligible for proportionate retirement. A member who qualifies for proportionate retirement and retires shall begin receiving retirement benefits beginning on the last day of the month after the month in which the member retired.

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

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

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

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

retirement date.

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

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

(6) Option VI. Equivalent Benefit Plan. If a member requests in writing, any other form of benefit or benefits may be paid either to the member or to such person or persons as the member shall designate before the member's actual retirement date, provided that the benefit plan requested by the member is certified by the actuary for the system to be the actuarial equivalent of the life annuity with guaranteed refund of the retired member's accumulated deposits. If, on the death of the member and all other persons entitled to receive payments under an optional benefit, the member's accumulated deposits as of the member's actual retirement date exceed the sum of all payments made under that optional benefit, that excess shall be paid in one lump sum to the member's beneficiary. A member selecting this option may elect to receive (i) either a life annuity or one of the actuarially-equivalent annuities described by Subdivisions (1)-(5) and (ii) a lump-sum payment upon retirement. If a member requests a lump-sum payment, the annuity requested by the member shall be actuarially reduced as a result of the lump-sum payment. The lump-sum payment may not exceed an amount equal to the total amount of 60 monthly life annuity payments. Active contributory members that reach normal retirement age may upon retirement elect to participate in a backward deferred retirement option program ("backward DROP") that permits a minimum participation period of one month and a maximum participation period of 60 months. This deferred retirement option is subject to retirement board policies issued in compliance with the code. No interest will be paid on, or added to, any backward DROP payment.

(m) For purposes of Subsection (l) of this section, the

designation of a beneficiary must be made in writing on a form and in the manner prescribed by the retirement board. If a member has chosen Option I, II, III, IV, or VI, the member's designation of a beneficiary may not be revoked after a member retires, and any attempted revocation of a designation for those options is void. Spousal consent shall not be required for a member to select Option I, II, III, or IV. If the member is married, spousal consent is required for the member to select an optional benefit other than Option I, II, III, or IV. At any time before retirement, a member may file with the retirement board a written statement designating one or more persons to be entitled to receive as beneficiary the reduced annuity payable under one of the optional benefits. If a married member designates as a beneficiary any person other than the member's spouse, the member's spouse must consent in writing to the beneficiary designation, and the beneficiary designation may not be changed without spousal consent, unless the consent of the spouse expressly permits designations by the member without the requirement of further consent by the spouse. The spouse's consent is irrevocable and must acknowledge the effect of the designation and be witnessed by a retirement board employee or notary public. Spousal consent is not required if it is established to the satisfaction of the retirement board that the required consent cannot be obtained because there is no spouse, the spouse cannot be located, or other circumstances exist as prescribed by United States Treasury regulations. Notwithstanding other provisions of this subdivision, the option election or beneficiary designation made by a member and consented to by the member's spouse may be revoked by the member in writing without consent of the spouse at any time before retirement. The number of revocations is not limited. A former spouse's waiver or consent is not binding on a new spouse. An option selection becomes effective on the member's actual retirement date. The member retains the right to change the option selected or the beneficiary designated until the member's actual retirement date, subject to this subsection.

(n) After filing the written statement selecting one of the optional benefits, the member may continue in employment and retire any time after the member becomes eligible by filing a written application for retirement. If the member dies before retirement but after becoming eligible for retirement, the effective date of the member's retirement is the last day of the calendar month of death,

and the benefit is computed on the optional benefit selected as if the member had retired on that date.

(o) The amount of the annuity payment in Options I, II, III, IV, V, and VI shall be determined without considering the minimum cumulative payment of the retired member's accumulated deposits since that refund feature will stay in effect as indicated herein.

(p) If a member who is eligible for retirement dies without having filed a written selection of one of the enumerated options and if the member leaves a surviving spouse, that spouse may select the optional benefit in the same manner as if the member had made the selection or may select a lump-sum payment equal to the deceased member's accumulated deposits plus an equivalent amount from Fund No. 2. If the member does not leave a surviving spouse, the member's designated beneficiary is entitled to elect either Option V, to become effective at the beginning of the calendar month after the month in which the death of the member occurs, or the sum of a lump-sum payment equal to the deceased member's accumulated deposits plus an equivalent amount from Fund No. 2. If the surviving spouse dies before the spouse receives retirement allowances equal to the amount of the member's accumulated deposits on the date of the member's death, the excess of the accumulated deposits over the retirement allowances paid shall be distributed in one lump sum to the member's estate.

(q) In the event of death of a member who is ineligible for retirement, the member's accumulated deposits and an equivalent amount from Fund No. 2 shall be paid in a lump sum to the member's beneficiary.

(r) If a designation of intent to participate in the proportionate retirement program under Chapter 803, Government Code, has not been filed with the retirement system and a prior demand for withdrawal of accumulated deposits has not been made within seven years after termination of employment by a member with less than five years' of creditable service, the member's accumulated deposits shall be returned to the member or the member's beneficiary. Except as provided by Subsection (s) of this section, if the system is unable to locate the member or the member's beneficiary, the member's accumulated deposits shall thereafter be forfeited and become a part of Fund No. 2.

(s) If the member or member's beneficiary later appears and requests in writing the payment of the member's accumulated deposits,

the system shall:

(1) reinstate the account of the member;

(2) credit to that account an amount equal to all of the accumulated deposits previously standing to the member's credit plus interest that would have been earned on those accumulated deposits if the funds had remained in Fund No. 1 between the date of forfeiture to Fund No. 2 and the date of reinstatement of the member's account;

(3) fund the account from the monies in Fund No. 2; and

(4) make all necessary payments to the member or member's beneficiary from the reinstated account.

(t) On payment of the accumulated deposits under this subsection, plus any interest on those deposits to which the member may be entitled, to the member or member's beneficiary in accordance with this subsection, the terminated employee ceases to be a member of the system.

(u) If the member's accumulated deposits are not withdrawn, notice of intent to participate in proportionate retirement is given, and eligibility to participate in proportionate retirement is established, the member's account shall be reinstated and credited but not refunded as provided by Subsection (s) of this section, and the member is entitled to receive a proportionate retirement allowance as provided by this Act.

(v) If a demand for withdrawal of funds is made after the 10th anniversary of the date of termination of employment and system records do not affirmatively establish that the accumulated deposits remain on deposit in the fund, the retirement board shall consider system records and evidence presented by the member or beneficiary in determining if any payment is due. The member or beneficiary bears the burden of proof. A decision by the retirement board is final.

(w) In the event of the death of a member receiving a retirement allowance, the sum of $10,000 shall be payable in a lump sum to the member's beneficiary.

(x) When monthly survivor benefits are deemed payable as a result of the death of a member before retirement, an additional sum of $10,000 shall be payable as a death benefit to the member's designated beneficiary.

(y) In the event of the death of the retired member then receiving a retirement allowance under any retirement option and the death of the beneficiary designated by the retired member, when either Option I, Option II, Option III, or Option IV is in effect,

before retirement allowances have been received that are equal or greater than the retired member's accumulated deposits, the member's estate will receive the excess of the retired member's accumulated deposits over the retirement allowances paid.

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

(aa) Notwithstanding any contrary provision of this Act, the distribution of a member's benefits, including benefits payable after the member's death, made on or after January 1, 1985, shall be made in accordance with Subsections (bb)-(gg) of this section and shall otherwise comply with Section 401(a)(9) of the code and related regulations, including Regulation Section 1.401(a)(9)-2.

(bb) A member's benefits shall be distributed to the member, or the distribution of those benefits shall begin, not later than April 1 of the calendar year after the calendar year in which occurs the later of the date on which the member attains age 70-1/2 or the date on which the member's employment by the employer terminates.

(cc) A member's benefits shall be distributed over a period not exceeding the life of the member or the lives of the member and the member's beneficiary or over a period not exceeding the life expectancy of the member or the life expectancy of the member and the member's beneficiary.

(dd) If the distribution of a member's benefit has begun and the member dies before the member's entire benefit is distributed, the remaining portion of that benefit shall be distributed at least as rapidly as under the form of benefit selected as of the date of the

member's death, adjusted as necessary under this subsection.

(ee) If a member dies before the distribution of the member's benefit has begun, the member's death benefit shall be distributed to the member's beneficiary within five years after the date of the member's death. This five-year rule does not apply to any portion of the deceased member's benefit that is payable to or for the benefit of the member's surviving spouse. A benefit payable to or for the benefit of the member's surviving spouse may be distributed over the life of the spouse or over a period not exceeding the life expectancy of the spouse, provided that payment of the benefit begins not later than the date on which the deceased member would have attained age 70-1/2. If the surviving spouse dies before distributions to that spouse begin, the five-year rule applies as if the spouse had been the member.

(ff) The five-year rule does not apply to distributions payable to a beneficiary over the life or life expectancy of the beneficiary, provided that payment of the benefit begins not later than the first anniversary of the date of the member's death.

(gg) In applying the requirements of this subsection, the life expectancy of the member and the member's beneficiary shall be redetermined annually in accordance with regulations under Section 401(a)(9) of the code and its subsequent amendments.

(hh) Forfeitures that may result from the termination of any right of a member may not be used to increase benefits to remaining members. This subsection shall not preclude an increase in benefits by amendment to this Act or action of the retirement board in accordance with Subsection (d) of this section that is made possible by forfeitures or for any other reason.

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

Sec. 8. DISABILITY RETIREMENT. (a) Only active-contributory members, inactive-contributory members, and members on approved medical leave of absence are eligible for consideration for disability retirement. A member may apply for disability retirement at any date prior to the member's normal retirement date, and the member remains in the member's membership category for the 90-day

period following the date of termination for inability to perform all employment duties. Inactive-noncontributory members are not eligible for consideration for disability retirement and may not receive any benefits under this section.

(b) If a member who is eligible for consideration for disability retirement has become mentally or physically incapacitated for the performance of all employment duties as a direct result of injuries sustained in the performance of the member's employment duties subsequent to the member's effective date of membership in the retirement system, the member may apply for disability retirement. Such application, made by or on behalf of the injured member, shall show that the injury sustained:

(1) was by external and violent means;

(2) came as a direct and proximate result of the performance of the member's employment duties with the employer; and

(3) is likely to be permanent.

(c) On recommendation of the physician or physicians appointed or selected by the retirement board that the eligible member's incapacity is likely to be permanent and after determining on that basis, or on the basis of any additional evidence which the retirement board deems relevant, that the member meets the requirements of Subsection (b) of this section, the retirement board shall award such member a disability retirement allowance. The decision of the retirement board is final subject to the reexamination, discontinuance and revocation rules at Subsections (h) and (i) of this section.

(d) If a member who is eligible for consideration for disability retirement, and who has more than five years of creditable service, has become mentally or physically incapacitated for the performance of all employment duties, such member may apply for disability retirement. The application made on behalf of the disabled member shall show that the incapacity is likely to be permanent. On recommendation of the physician or physicians appointed or selected by the retirement board that the eligible member's incapacity is likely to be permanent and after determining on that basis, or on the basis of any additional evidence which the retirement board deems relevant, that the member meets the requirements of this subsection, the retirement board shall award such member a disability retirement allowance. The decision of the retirement board is final subject to the reexamination, discontinuance and revocation rules at Subsections

(h) and (i) of this section.

(e) On award of a disability retirement allowance, the member shall receive a disability retirement allowance, beginning on the last day of the month after the month in which the member became disabled, which shall be computed in the same manner that a retirement allowance would be computed at the member's normal retirement date, based on compensation and creditable service at the date of disability retirement. The disabled member may choose to receive a life annuity (modified cash refund) or a benefit as described by Section 7(l) of this Act as Option I, Option II, Option III, or Option IV.

(f) A member receiving a disability retirement allowance shall periodically file a report with the retirement board concerning continued proof of disability. The retirement board shall adopt rules establishing the required supporting information to accompany the reports, the content of the reports, and deadlines for filing the reports. The report shall include:

(1) a current statement of the member's physical or mental condition stating the existence of continued disability, signed by the member's attending physician; and

(2) a statement of all employment activities pursued in the preceding year.

(g) A disabled member shall file periodic reports required by Subsection (f) of this section no later than the deadlines established by the retirement board. The retirement board may require that all periodic reports, including the member's most recent tax return, be filed in the same calendar month. The retirement board may verify all information submitted in the report.

(h) The pension director will be responsible for a yearly report to the retirement board listing those disabled members who should be examined. The retirement board shall have the right to order examinations of any person on disability retirement each year until the member reaches the normal retirement date. If the member fails or refuses to submit to an examination by a physician or physicians appointed by the retirement board or if the member fails or refuses to submit a periodic report in accordance with Subsection (g) of this section concerning continued proof of disability, the disability retirement allowance shall be discontinued until the member has submitted to an examination requested by the retirement board and has submitted any delinquent report. Should such failure or refusal

continue for a period of one year, the disability retirement allowance may be revoked by the retirement board. If a member's disability retirement allowance has been revoked for failure to file a periodic report or to submit to any requested examination, the retirement board may reinstate the member's disability retirement allowance on a prospective basis only on the member's full performance of and compliance with all requirements of this section and the retirement board's determination that the member's disability is continuing.

(i)(1) If an investigation of the disabled member's activities or a medical examination shows that the member is no longer physically or mentally incapacitated for the purposes of the performance of employment duties or if the member is found to be engaged in or is able to engage in substantial gainful occupation, as defined by Social Security disability income guidelines, for which the member is reasonably suited by education, training, or experience, the retirement board shall discontinue the disability retirement allowance.

(2) If the disability retirement allowance of a member who had less than five years of creditable service is discontinued under this subsection or Subsection (h) of this section and not reinstated, and the member is not reemployed by the employer, the member is entitled to any amount by which the sum of the member's accumulated deposits as of the date of disability retirement exceeds the sum of all disability retirement benefits paid to the member by the system.

(3) If the disability retirement allowance of a member is discontinued under this subsection or Subsection (h) of this section and not reinstated, and the member is not reemployed by the employer, the member may withdraw any amount by which the sum of the member's accumulated deposits as of the date of the disability retirement exceeds the sum of all disability retirement benefits paid to the member by the system. If a member has five or more years of creditable service and does not withdraw the excess, the member is entitled to a life annuity (modified cash refund) beginning on the first day of the month after the month in which the member's normal retirement date occurs.

(j) If a disabled member returns to active employment service with the employer, the disability retirement allowance shall cease. If the person is reemployed as a regular full-time employee, the person shall be reinstated as an active-contributory member of the

system and shall comply with all requirements of this Act. If reinstated as an active-contributory member, membership service credits accumulated prior to disability shall be restored to the full amount standing to the member's credit as of the date the retirement board found the member eligible for disability retirement, and any prior service credit shall be restored in full. The member is not required to reimburse the fund for any disability retirement allowance amounts received by the member.

Sec. 9. LIMITATIONS ON BENEFITS. (a) Notwithstanding any other provisions of this Act, the annual benefit provided with respect to any member may not exceed the benefits allowed for a governmental defined benefit plan qualified under Section 401 of the code. The maximum benefits allowed under this section shall increase each year to the extent permitted by annual cost of living increase adjustments announced by the United States secretary of the treasury under Section 415(d) of the code and the increased benefit limits shall apply to members who have terminated employment, including members who have commenced to receive benefits, before the effective date of the adjustment.

(b) If the aggregate benefits otherwise payable to any member under this Act and any other defined benefit plan or plans maintained by the employer would otherwise exceed the limit provided by Section 415 of the code, the reductions in benefits shall be made in the benefits provided under this Act, to the extent necessary to enable each plan or plans to satisfy those limitations, unless the retirement board is informed by the administrator of the other plan that the reductions are required to be made in the other plan.

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

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

(e) The retirement board shall suspend the retirement allowance

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

(f) A member whose retirement allowance is suspended under Subsection (d) or (e) of this section may apply in writing for reinstatement of the retirement allowance when the member retires again. The retirement system shall calculate the reinstated retirement allowance based on the member's total creditable service, reduced actuarially to reflect the gross amount of total retirement allowance paid to the member prior to suspension of the retirement allowance.

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

(h) to (o) Repealed by Acts 1999, 76th Leg., ch. 834, Sec. 14, eff. Oct. 1, 1999.

(p) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1352, Sec. 10, eff. June 17, 2011.

Sec. 10. METHOD OF FINANCING. (a) Each active-contributory member shall make deposits to the retirement system at a rate equal to eight percent of the member's base compensation, pay, or salary, exclusive of overtime, incentive, or terminal pay or at a higher contribution rate approved by a majority vote of regular full-time employee members. Deposits shall be made by payroll deduction each pay period. If a regular full-time employee works at least 75 percent of a normal 40-hour work week but less than the full 40 hours, the employee shall make deposits as though working a normal 40-hour work week even though the rate of contribution may exceed eight percent of the employee's actual compensation, pay, or salary, and the employee's average final compensation shall be computed on the basis of the compensation, pay, or salary for a normal 40-hour work week. No deposits may be made nor membership service credit received for periods during which an employee's authorized normal work week is less than 75 percent of a normal 40-hour work week. A person who is eligible for inactive-contributory membership status

and who chooses to be an inactive-contributory member shall make deposits to the retirement system each pay period in an amount that is equal to the amount of the member's deposit for the last complete pay period that the member was a regular full-time employee. The regular full-time employee members may increase, by a majority vote of all such members voting at an election to consider an increase in contributions, each member's contributions above eight percent or above the higher rate in effect and approved by majority vote in whatever amount the retirement board recommends. Each employer shall contribute amounts equal to eight percent of the compensation, pay, or salary of each active-contributory member and each inactive-contributory member employed by the employer, exclusive of overtime, incentive, or terminal pay, or a higher contribution rate agreed by the employer. If a regular full-time employee of the employer works at least 75 percent of a normal 40-hour work week but less than the full 40 hours, the employer shall make contributions for that employee as though that employee works a normal 40-hour work week even though the rate of contribution may exceed eight percent of that employee's actual compensation, pay, or salary. The governing body of the city may authorize the city to make additional contributions to the system in whatever amount the governing body may determine. If the governing body authorizes additional contributions to the system by the city for city employees, the board of each other employer shall increase the contributions for such employer's respective employees by the same percentage. Employer contributions shall be made each pay period.

(b) In addition to the contributions by the city required by Subsection (a) of this section, the city shall contribute to the retirement fund each month two-thirds of such amounts as are required for the payment of prior service pensions that are payable during that month, and one-third of each prior service pension payable that month shall be made from Fund No. 2.

(c) Employer contributions shall be paid to the retirement system after appropriation by the respective governing body or board.

(d) Expenses for administration and operation of the retirement system that are approved by the retirement board shall be paid by the retirement board from funds of the retirement system. Such expenses shall include salaries of retirement board employees and fees for actuarial services, legal counsel services, physician services, accountant services, annual audits by independent certified public

accountants, investment manager services, investment consultant services, preparation of annual reports, and staff assistance.

(e) Each employer shall pick up the contributions required to be made to the fund by its respective employees. Active contributory member deposits will be picked up by each employer by a reduction in each such employee's monetary compensation. All such employee contributions shall be treated as employer contributions in accordance with Section 414(h)(2) of the code for the purpose of determining tax treatment of the amounts under the code. Such contributions are not includable in the gross income of the employee until such time as they are distributed or made available to the employee. Each employee deposit picked up as provided by this subsection shall be credited to the individual accumulated deposits account of each such employee and shall be treated as compensation of the employee for all other purposes of this Act and for the purpose of determining contributions to social security. The provisions of this subsection shall remain in effect as long as the plan covering employees of the employers is a qualified retirement plan under Section 401(a) of the code and its related trust is tax exempt under Section 501(a) of the code.

(f) Under no circumstances and in no event may any of the contributions and income of the retirement system revert to the employer or otherwise be diverted to or used for any purpose other than the exclusive benefit of the members, retirees and their beneficiaries. It shall be impossible for the diversion or use prohibited by the preceding sentence to occur, whether by operation or natural termination of the retirement system, by power of revocation or amendment, by the happening of a contingency, by collateral arrangement, or by any other means.

(g) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1352, Sec. 10, eff. June 17, 2011.

Sec. 11. INVESTMENTS OF THE RETIREMENT BOARD. (a) The retirement board shall be the trustee of the funds of the retirement system and shall have full power in its sole discretion to invest and reinvest, alter, and change the form of investment of the funds. The retirement board shall invest the funds in whatever instrument or investments the retirement board considers prudent. In making investments for the funds, the retirement board shall discharge its duties:

(1) for the exclusive purposes of:

(A) providing benefits to members and their beneficiaries; and

(B) defraying reasonable expenses of administering the funds;

(2) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(3) by diversifying the investments of the funds to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(4) in accordance with the laws, documents, and instruments governing the funds.

(b) A member of the retirement board is not liable for any losses incurred in the investment of the fund in accordance with this section.

(c) No member of the retirement board and no employee of the retirement board, except as herein provided, shall have any interest, directly or indirectly, in the funds or receive any pay or emolument for his or her services. No member of the retirement board or employee thereof shall, directly or indirectly, for himself or herself or as an agent, in any manner use the funds or deposits of the retirement system except to make such current and necessary payments as are authorized by the retirement board, nor shall any member or employee of the retirement board become an endorser or surety or in any manner an obligor for money loaned by or borrowed from the retirement system.

(d) Subject to the exceptions provided by this subsection, the funds or money mentioned in this Act are not assignable and are not subject to execution, levy, attachment, garnishment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever. This subsection does not apply to a qualified domestic relations order. The retirement board shall establish written procedures to determine the qualified status of domestic relations orders and to administer distributions under those orders. To the extent necessary to authorize distributions pursuant to a qualified domestic relations order, a former spouse of a member will be treated as the spouse or surviving spouse of the member.

(e) Subject to the exceptions provided by this subsection, the right of a member to a pension, an annuity, a disability retirement allowance, or a retirement allowance, to the return of accumulated deposits, the pension, annuity, or retirement allowance itself, any

optional benefit or death benefits, or any other right accrued or accruing to any person under the provisions of this Act is unassignable and is not subject to execution, levy, attachment, garnishment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever. This subsection does not apply to a qualified domestic relations order.

(f) If the retirement board makes an election to have Subchapters A and C of Chapter 804, Government Code, and their subsequent amendments, apply to the system, the death of an alternate payee, as defined by Section 804.001, Government Code, and its subsequent amendments, or the death of a member's spouse terminates any interest of the alternate payee or spouse that would otherwise exist under this Act, except an interest accrued by that person as a member.

Sec. 12. MISCELLANEOUS. (a) A person who with intent to deceive makes any statement or report required under this Act which is untrue or falsifies or knowingly permits to be falsified any record or records of the retirement system shall forfeit any office or rights held by the person under the system, and such deception, falsification, or acquiescence in falsification is deemed a Class B misdemeanor.

(b) If any change or error in the records of the retirement system is discovered or results in any member, surviving spouse, or beneficiary receiving from the retirement system more or less than the member, surviving spouse, or beneficiary would have been entitled to receive had the records been correct, the retirement board shall have the power to correct such error. Except as provided by Section 802.1024, Government Code, the retirement system shall, as far as possible, adjust the payments in such a manner that the actuarial equivalent of the benefits to which the member, surviving spouse, or beneficiary was correctly entitled shall be paid.

(c) On the full or partial termination of the retirement and pensioning system, or on the complete discontinuance of contributions by all employers under this Act, the retirement allowance of each affected member who is employed by an employer on the date of termination is determined by reference to the member's average final compensation and creditable service determined as of the date of termination or partial termination of the system or the date of discontinuance of deposits as if the member had attained normal retirement age on that date, and such amount shall become

nonforfeitable to the extent then funded. This subsection does not accelerate the date on which the payment of that benefit would otherwise begin.

(d) Notwithstanding any other provision in this Act to the contrary, the municipality or its governing body may not deny or abridge a vested right of any member or a right or privilege of the retirement system, and the retirement system shall continue to be authorized by and administer this Act without regard to any action taken by the municipality or its governing body.

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

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

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

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

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

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

(D) the portion of any distribution that is not includable in gross income unless the distributee directs that the eligible rollover distribution be transferred directly to a qualified trust that is part of a defined contribution plan that agrees to separately account for the portion that is includable in gross income

and the portion that is not, or to an individual retirement account or individual annuity.

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

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

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

(f) Repealed by Acts 1997, 75th Leg., ch. 64, Sec. 5.

Sec. 13. CONFIDENTIALITY. (a) Information contained in records that are in the custody of the retirement board or the system concerning an individual member, retiree, annuitant, beneficiary, or alternate payee is confidential under this section and may not be disclosed in a form identifiable with a specific individual unless:

(1) the information is disclosed to:

(A) the individual or the individual's attorney, guardian, executor, administrator, conservator, or other person who the pension director determines is acting in the interest of the individual or the individual's estate;

(B) a spouse or former spouse of the individual if the pension director determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the retirement system;

(C) a governmental official or employee if the pension director determines that disclosure of the information requested is reasonably necessary to the performance of the duties of the official or employee;

(D) the individual's employer as defined in this Act; or

(E) a person authorized by the individual in writing to receive the information; or

(2) the information is disclosed pursuant to a subpoena and the pension director determines that the individual will have a reasonable opportunity to contest the subpoena.

(b) This section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree, deceased member or retiree, beneficiary, or alternate payee of the retirement system.

(c) The pension director may designate other employees of the retirement system to make the necessary determinations under Subsection (a) of this section.

(d) A determination and disclosure under Subsection (a) of this section may be made without notice to the individual member, retiree, annuitant, beneficiary, or alternate payee.

Acts 1991, 72nd Leg., ch. 451, eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 180, Sec. 1 to 10, eff. July 1, 1993; Acts 1995, 74th Leg., ch. 743, Sec. 1, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 64, Sec. 1 to 5; Acts 1999, 76th Leg., ch. 834, Sec. 1 to 12, 14, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 168, eff. Sept. 1, 2001.
Sec. 12(b) amended by Acts 2003, 78th Leg., ch. 416, Sec. 2, eff. June 20, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1283 (H.B. 1979), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1283 (H.B. 1979), Sec. 2, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1352 (H.B. 3033), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1352 (H.B. 3033), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1352 (H.B. 3033), Sec. 3, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1352 (H.B. 3033), Sec. 4, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1352 (H.B. 3033), Sec. 5, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1352 (H.B. 3033), Sec. 6, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1352 (H.B. 3033), Sec. 7, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1352 (H.B. 3033), Sec. 8, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1352 (H.B. 3033), Sec. 9, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1352 (H.B. 3033), Sec. 10, eff. June 17, 2011.

Art. 6243n-1. POLICE OFFICERS RETIREMENT SYSTEM IN MUNICIPALITIES OF 460,000 TO 500,000.

ARTICLE I

Sec. 1.01. APPLICABILITY AND DEFINITIONS. This Act applies only to a municipality having a population of more than 750,000 and less than 850,000.

Sec. 1.02. DEFINITIONS. The following words and phrases have the meanings assigned by this section unless a different meaning is plainly required by the context:

(1) "Accumulated deposits" means the amount standing to the credit of a member derived from the deposits required to be made by the member to the police retirement system or to the predecessor system. Accumulated deposits also include interest that is credited annually to the account of a vested member at a rate of five percent or the rate determined by the board and that is credited as of December 31 to amounts standing to the credit of the member on January 1 of the same calendar year. Accumulated deposits also include interest credited to the account of a member before September 1, 2007, without regard to whether the member is vested at the time the interest is credited to the member's account.

(2) "Actuarial equivalent" means any benefit of equal present value to a standard benefit when computed as specified by this Act.

(3) "Actuary" means a technical advisor of the police retirement

board regarding the operations which are based on mortality, service, and compensation experience who makes periodic valuations of the assets and liabilities of the funds and other evaluations as requested by the board.

(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 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 during which the member made contributions to the system or the predecessor system, the average of the 36 months which yielded the highest average; or

(C) if the member does not have 36 months of membership service 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.

(5) "Basic hourly earnings" means the hourly rate of the sum of base pay plus longevity pay but does not include any other type of pay.

(6) "Beneficiary" means any person, trust, or estate properly designated by a member or retired member to receive benefits from the system.

(7) "Creditable service" means the number of months during which a member pays into and keeps on deposit the amounts of money prescribed by this Act to be paid by the member into the system or into the predecessor system, including certain military service and certain probationary service in excess of six months for which a member has purchased creditable service in accordance with Article V of this Act, and excluding a month in which service amounted to fewer than 15 days. The months beyond attained age 62 are included within the meaning of creditable service, regardless of payments into this system or into the predecessor system if the police officer is otherwise eligible for membership in the system, is a police officer employed by the city, and did not contribute for the months only if

they occurred before September 1, 1995.

(8) "Death benefit" means a single sum payable as a result of the death of a member or retired member.

(9) "Deposits" means the amount required to be paid by members in accordance with the provisions of this Act.

(10) "Disability retirement" means the employment termination of a member from service with a disability retirement benefit as provided under this Act.

(11) "Employment termination" means:

(A) the voluntary termination of employment with the city or the system; or

(B) the involuntary termination of employment with the city or the system of a member who does not appeal the termination through arbitration or through the civil service commission or whose appeal has been denied by arbitration or by the civil service commission.

(12) "Fund No. 1" means the part of the trust assets consisting of all accumulated deposits of members who have not withdrawn from the system.

(13) "Fund No. 2" means the part of the trust assets consisting of all money contributed by the city, interest earned thereon, and all accumulations and earnings of the system except those of Fund No. 1.

(14) "Investment consultant" means a person who monitors the investment performance of the system and provides other services as requested by the board.

(15) "Investment manager" means a person or persons who monitor and manage any portion of the investment portfolio for the system making specified investment decisions on behalf of the system.

(16) "Life annuity," "retirement annuity," or "annuity" means a series of equal monthly payments, payable for life after retirement.

(17) "Life annuity (modified cash refund)" means a series of equal monthly payments, payable for life after retirement. In the event of death of the retired member before that member has received monthly payments equal to the amount of that member's accumulated deposits at the date of retirement, the excess, if any, of such accumulated deposits over the monthly payments shall be refunded in one sum to the member's beneficiary.

(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. 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.

(19) "Normal retirement date" means the last day of the earliest month in which the member has satisfied the eligibility requirements of Section 6.02 of this Act.

(20) "Predecessor system" means the retirement system for police officers in effect before January 1, 1980.

(21) "Police officer" means any full-time commissioned police officer employed by the police department of the city pursuant to Chapter 143, Local Government Code.

(22) "Police retirement board" or "board" means the board of trustees of the police retirement system created by Section 3.01 of this Act for the purpose of administering the system.

(23) "Police retirement system" or " system" means a retirement and pensioning system for police officers of certain cities and for employees of the system established by Section 2.01 of this Act.

(24) "Retired member" means a member who is receiving a service or disability retirement benefit.

(25) "Retirement" means employment termination in order to receive an annuity in accordance with the provisions of the police retirement system under this Act.

(26) "Retirement date" means the last day of the month of the retirement of the member.

(27) "Service" or "active service" means service as a police officer of the city paid for by the city or service as a member of the police retirement system's administrative staff paid for by the system.

(28) "Spouse" means a spouse as recognized under the laws of this state.

(29) "Survivor benefit" means a series of equal monthly payments payable as a result of the death of a member after becoming eligible for service retirement but before retirement and computed as if the member had retired on the last day of the month of death.

(30) "Vested" means a member has a right to leave the member's accumulated deposits standing to the member's credit with the system and receive a service retirement benefit on attaining the age at which service retirement benefits become payable. A member is vested on attaining 10 years of creditable service.

(31) "Vested interest" means the amount of benefit to which a

member has a nonforfeitable right in accordance with the provisions of this Act.

(32) "Withdrawal" means employment termination for any cause whatsoever prior to retirement date and the subsequent receipt or direct rollover of the accumulated deposits standing to the member's credit in the police retirement system.

(33) "Withdrawal benefit" means the accumulated deposits of a member on withdrawal which have been made in one lump sum unless specifically provided otherwise in this Act.

ARTICLE II

Sec. 2.01. ESTABLISHMENT AND APPLICABILITY. The retirement system for police officers of the city and the trust forming a part of that system are hereby established on the passage of this Act by the Legislature of the State of Texas. The police retirement system and the related trust are placed under the management of the police retirement board for the purpose of providing certain benefits on retirement for police officers, as defined in this Act.

Sec. 2.02. SUCCESSOR. This system is the successor system to the one applicable to police officers immediately prior to the effective date of this Act.

Sec. 2.03. PURPOSE. It is the express purpose of this Act to have no duplication of benefits provided by the police retirement system and the retirement system for other employees of the city for a common period of service to the city. Any change in employment status which results in transferring membership between the police retirement system and the retirement system for other employees of the city shall be handled in a policy determined to be satisfactory by the police retirement board and by the board for the retirement system for other employees of the city. Such policy may include the transfer of member service and appropriate transfer of Fund No. 1 and Fund No. 2 assets as determined by the retirement boards.

ARTICLE III

Sec. 3.01. ADMINISTRATION. There is hereby created a police retirement board of the police retirement system, in which is hereby invested the general administration, management, and responsibility for the proper and effective operation of the police retirement system. The board shall be organized immediately after its members have qualified and taken the oath of office. All members of the board on January 1, 1991, shall become members of the board on the effective date of this Act and continue to serve for the remainder of

the terms of office in effect on the day prior to the effective date of this Act.

Sec. 3.02. COMPOSITION OF BOARD. (a) The police retirement board shall be composed of 11 members as follows:

(1) one council member designated by the city council;

(2) the city manager or the city manager's designee;

(3) the director of finance or the director's designee;

(4) five police officer members elected by the police officer members of the system, each of whom serves for a term of four years;

(5) one legally qualified voter of the city, resident for the preceding five years, to be appointed by the police retirement board to serve for a term of four years and until the member's successor is duly selected and qualified; and

(6) two retired members to be elected by the retired members to serve for a term of four years, with the term of one member expiring each odd-numbered year.

(b) The terms of two members elected as described by Subsection (a)(4) of this section expire in 2001 and every fourth subsequent year, and the terms of three members elected as described by Subsection (a)(4) of this section expire in 2003 and every fourth subsequent year.

(c) A vacancy occurring by the death, resignation, or removal of the member appointed under Subsection (a)(5) of this section shall be filled by appointment by the remaining members of the police retirement board.

Sec. 3.03. POLICE OFFICER AND RETIRED MEMBERS OF BOARD. (a) The police officer members of the board shall be elected and shall serve in accordance with Subsections (b)-(e) of this section.

(b) Any police officer member is eligible to run in the election for a position on the board.

(c) Members shall serve during the term for which they are elected and until their successors are elected and qualified, unless they are removed or their active service as police officers with the city is terminated for any reason other than service retirement. If a police officer member should elect service retirement under Article VI of this Act while serving the term for which the member is elected, the member shall continue to serve for the remainder of the term.

(d) A vacancy occurring by reason of removal, resignation, death, or any other reason shall be filled for the remainder of the

term by a police officer member appointed by the remaining members of the police retirement board.

(e) Elections for police officer members shall be held on the first payday in December of each odd-numbered year. The police officers receiving the highest number of votes are elected. In case of a tie vote, selection shall be by lot.

(f) The retired members of the board shall be elected and shall serve in accordance with Subsections (g)-(j) of this section.

(g) Any retired member is eligible to run in the election for a position on the board.

(h) Retired members shall serve during the term for which they are elected and until their successors are elected and qualified.

(i) A vacancy occurring by reason of removal, resignation, or death shall be filled for the remainder of the term by a retired member appointed by the vote of a majority of the remaining members of the police retirement board.

(j) An election for retired members shall be held during the first week in December of each odd-numbered year. The retired member receiving the highest number of votes in an election is elected. In case of a tie vote, selection shall be by lot.

(k) The police retirement board shall approve written procedures for the conduct of all elections under this Act and shall certify and announce the results of each election.

Sec. 3.04. OATH; COMPENSATION. (a) At the first regularly scheduled police retirement board meeting after appointment and election, each member of the police retirement board shall take an oath of office that, so far as it devolves upon him, the member will diligently and honestly administer the affairs of the police retirement system and that the member will not knowingly violate or willingly permit to be violated any of the provisions of this Act applicable to the police retirement system.

(b) All members of the board shall serve without compensation.

Sec. 3.05. CHAIR; VICE-CHAIR. (a) The board shall elect from its membership a chair and a vice-chair to serve two years.

(b) The board shall appoint a pension officer. The pension officer shall appoint other necessary staff members with approval of the board. The pension officer, acting under the direction of the board, shall keep all of the records of the police retirement system and a record of the proceedings of the board. The pension officer and other employees of the system shall receive such compensation as

the board may fix in each annual budget or amendments thereto.

Sec. 3.06. RULES; QUORUM; REMOVAL. (a) Subject to the limitations of this Act, the police retirement board shall from time to time establish rules and regulations for the administration of the police retirement system authorized to be created by this Act and for the transaction of the board's business.

(b) Each member of the board shall be entitled to one vote. Six members shall constitute a quorum. A majority vote of members attending a meeting shall be necessary for a decision of the board.

(c) Any member who is absent from five consecutive board meetings shall be removed from the board, and the member shall be replaced in accordance with Section 3.02 of this Act.

Sec. 3.07. BOARD RECORDS. The board shall keep or cause to be kept in convenient form data necessary for actuarial valuation of various funds of the police retirement system and for checking the experience of the system. The board shall keep a record of all its proceedings, which shall be open to public inspection, and shall publish annually a report showing the fiscal transactions of the police retirement system for the preceding year and the amount of its accumulated cash and securities as disclosed by the most recent actuarial valuation of assets and liabilities.

Sec. 3.08. ADMINISTRATION OF POLICE RETIREMENT SYSTEM. (a) The board shall have charge of and administer the police retirement system and shall order payments therefrom under the provisions of this Act.

(b) The board shall obtain from the city all records necessary to administer the system. Individual accounts shall be maintained with each member of the police retirement system, showing the amount of the member's accumulated deposits as provided under the system. Annually a statement shall be given each member showing the total accumulation of the member's credit.

(c) The board shall engage and employ a certified public accountant or firm of certified public accountants to perform an audit of the accounts of the board and the police retirement system at least annually.

Sec. 3.09. ACTUARY; DUTIES. (a) The police retirement board shall designate an actuary that shall be the technical advisor to the board regarding the funds authorized by provisions of this Act and shall perform such other duties as may be required in connection therewith. As soon as practicable after the establishment of the

police retirement system, the actuary shall recommend for adoption by the board tables and rates required by the system. The board shall adopt the tables and rates and as soon as practicable thereafter the actuary shall make a valuation, based on the tables and rates, of the assets and liabilities of the system.

(b) From time to time on the advice of the actuary and at the direction of the board, the actuary shall make an actuarial investigation of the mortality, service, and compensation experience of members, retired members, and beneficiaries of the system and shall recommend for adoption by the board the tables and rates required by the system. The board shall adopt the tables and rates to be used by the system.

(c) The actuary shall make valuations of the assets and liabilities of the system based on tables and rates adopted by the board at least every two years.

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.

Sec. 3.11. INVESTMENT CONSULTANT. The board may hire an investment consultant to monitor the investment performance of the system's investment manager or managers and provide other investment advice requested by the board.

Sec. 3.12. LEGAL COUNSEL. The board may retain legal counsel to advise, assist, or represent the board in any legal matters affecting the operation of the system. The board may litigate all matters for and on behalf of the police retirement system.

Sec. 3.13. REIMBURSEMENT OF LEGAL EXPENSES OF BOARD MEMBER OR EMPLOYEE OF SYSTEM. (a) The board may:

(1) reimburse a board member or an employee of the police retirement system for liability imposed as damages because of an alleged act, error, or omission committed in the person's capacity as a fiduciary or co-fiduciary of assets of the system or as an employee of the system and for costs and expenses incurred by the person in defense of a claim of an alleged act, error, or omission; or

(2) purchase from an insurer authorized to engage in business in this state one or more insurance policies that provide for that reimbursement.

(b) The board may not provide reimbursement under this section,

and may not purchase an insurance policy under this section that would provide reimbursement, of a board member or employee of the police retirement system for liability imposed or expenses incurred because of the person's personal dishonesty, fraudulent breach of trust, lack of good faith, intentional fraud or deception, or intentional failure to act prudently.

(c) The cost of reimbursement or an insurance policy purchased under this section shall be paid from the assets of the police retirement system.

Sec. 3.14. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS, RETIREES, ANNUITANTS, OR BENEFICIARIES. (a) Information contained in records that are in the custody of the police retirement system concerning an individual member, retiree, annuitant, or beneficiary is confidential under Section 552.101, Government Code, and may not be disclosed in a form identifiable with a specific individual unless:

(1) the information is disclosed to:

(A) the individual or the individual's attorney, guardian, executor, administrator, or conservator, or another person who the administrator of the police retirement system determines is acting in the interest of the individual or the individual's estate;

(B) a spouse or former spouse of the individual after the administrator of the police retirement system determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the police retirement system;

(C) a governmental official or employee after the administrator of the police retirement system determines that disclosure of the requested information is reasonably necessary to the performance of the duties of the official or employee; or

(D) a person authorized by the individual in writing to receive the information; or

(2) the information is disclosed pursuant to a subpoena and the administrator of the police retirement system determines that the individual will have a reasonable opportunity to contest the subpoena.

(b) This section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree, deceased member or retiree, or beneficiary of the police retirement system.

(c) A determination and disclosure under Subsection (a) may be made without notice to the individual member, retiree, annuitant, or beneficiary.

(d) If a disclosure under Subsection (a) is a disclosure of protected health information by a covered entity, as those terms are defined by the privacy rule of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the covered entity shall ensure that the authorization for the disclosure complies with all of the privacy rule's applicable requirements, standards, and implementation specifications relating to authorizations for uses and disclosures of protected health information.

ARTICLE IV

Sec. 4.01. MEMBERSHIP. (a) Any person who is a police officer of the city on the date the police retirement system becomes effective and was a member of the predecessor system on December 31, 1979, shall become a member as a condition of employment.

(b) Any person who is a police officer of the city on the date the police retirement system becomes effective but was not a member of the predecessor 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 or eligibility, if later.

(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 or eligibility, if later.

(d) Police officers of the city and employees of the system may not become members of the police retirement system if they are part-time police officers or employees of the system who are expected to work less than a normal work week or if they are seasonal or temporary police officers or employees of the system. A full-time police officer of the city or employee of the system eligible for membership in the system is one whose position is classified in the annual budget, who is expected to be employed throughout the full calendar year, and whose employment is expected to continue from year

to year.

(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 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.

(f)(1) A member shall cease to be a member of the police retirement system and shall forfeit creditable service if, after employment termination through dismissal, resignation, or from any other cause, the member shall withdraw the member's accumulated deposits as provided under the withdrawal benefit provisions of this Act; provided, however, that any eligible member who has not previously received credit for one-half of the member's previously forfeited creditable service shall be entitled to reinstatement of previously forfeited creditable service if such eligible member or eligible surviving spouse shall have deposited in the system the accumulated deposits withdrawn and an interest charge based on the amount withdrawn 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 in which the member withdrew the member's

accumulated deposits and ends with the beginning of the month and year payment is made to the system to reinstate the service.

(2) For purposes of this subsection, an eligible member is a police officer who has been reemployed by the city or a system employee who has been reemployed by the system, has completed at least 24 consecutive months of service as a member since the member was reemployed, and is not separated from active service. For purposes of this subsection, an eligible surviving spouse is the surviving spouse of a member who was an eligible member immediately before the time of death if the member dies before making payment to the system of the amount required by this subsection.

(3) In order to be eligible to reinstate previously forfeited creditable service, an eligible member or eligible surviving spouse must deposit the amount described in Subdivision (1) of this subsection as a lump sum in the system. An eligible surviving spouse may reinstate previously forfeited creditable service not later than the date that is six months after the date of the member's death and only if the lump-sum death benefit described by Section 6.05(a) or 6.06(a)(3) of this Act is not paid.

(4) Any such member who has previously received credit for one-half of previously forfeited creditable service shall be entitled to reinstate the remaining one-half of the member's previously forfeited creditable service by payment of one-half of the amount previously withdrawn and an interest charge as described in Subdivision (1) of this subsection.

(5) The method of determining the amount of the required payment described by Subdivision (1) of this subsection may be changed if:

(A) the effect of the change is disclosed by the board's actuary;

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

(C) the change applies to all payments for reinstating previously forfeited creditable service under this subsection made to the system after the effective date of the change.

(6)(A) A member granted a leave of absence or withdrawing from service for a stated period of time, not to exceed two years, who allows the member's accumulated deposits to the police retirement system to remain in the system, shall be eligible for continued membership on being reemployed by the city as a police officer or by the system as an employee of the system. During that period the employee shall not receive creditable service.

(B) Uniformed service leave of absence shall not be included in the two-year period if the member returns to active service with the city as a police officer or with the system as an employee of the system within 90 days after the expiration of the uniformed service leave of absence. A member of the system on uniformed service leave of absence may make deposits to the system during the leave of absence, in an amount each biweekly pay period that is equal to the amount of the member's deposit for the last complete biweekly pay period that the member was paid by the city or the system. If a member on a uniformed service leave of absence makes biweekly deposits during the leave of absence, the employer shall make a contribution to the system for the member each biweekly pay period in an amount the employer would have made if the member's biweekly pay had continued to be the biweekly pay the member received for the last complete biweekly pay period that the member was paid by the employer. If the member does not make deposits during a uniformed service leave of absence, the member may make payment within five years after the member has returned to the employment of the city or the system, equal to the deposits the member would have made if the member had continued to be paid by the city or the system during the member's leave of absence at the same rate of pay the member was receiving at the time the member's leave of absence began. The payment may be a single payment or may be in installments as long as each individual installment is not less than 20 percent of the total amount to be paid. A member who otherwise would be eligible to make payment under this subdivision but who has not made payment and for whom it has been more than five years since the member returned to the employment of the city may make payment during the period beginning October 1, 1995, and ending September 30, 1996. If a member makes payment of the deposits after returning to the employment of the city or the system, the employer will make a single contribution for the member equal to the deposits it would have made on the member's behalf if the member had made deposits to the system during the period of the member's leave.

(g) Repealed by Acts 1995, 74th Leg., ch. 40, Sec. 18, eff. Sept. 1, 1995.

ARTICLE V

Sec. 5.01. CREDITABLE SERVICE. (a) The board shall determine by appropriate rules and regulations, subject to the provisions of this Act, in case of a member's absence, illness, or other temporary

separation from service, the portion of each calendar year to be allowed as creditable service.

(b) No credit shall be allowed as service for any period exceeding one month during which a member was absent continuously without pay, except as provided in Subsection (f) of Section 4.01 of this Act, with respect to uniformed service leave of absence; as provided in Section 5.02 of this Act, with respect to military service performed prior to system membership; or as provided in Section 5.03 of this Act, with respect to probationary service in excess of six months.

(c) The board shall verify the records for service claims filed by the members of the police retirement system, in accordance with such administrative rules and regulations as the board may from time to time adopt.

Sec. 5.02. MILITARY SERVICE CREDIT. (a) An eligible member or eligible surviving spouse may establish creditable service for military service performed as provided under this section according to the following conditions, limitations, and restrictions:

(1) Military service creditable in the system is active federal duty service in the Armed Forces of the United States, other than as a student at a service academy, as a member of the reserves, or any continuous active military service lasting less than 90 days, and such military service must have been performed prior to becoming a member of the police retirement system or its predecessor system.

(2) For purposes of this section, an eligible member must:

(A) have been released from military duty under conditions not dishonorable; and

(B) be a police officer employed by the city or an employee of the system who is not separated from active service.

(3) An eligible member or eligible surviving spouse may not establish more than 24 months of creditable service in the system for military service.

(4) An eligible member or eligible surviving spouse may establish creditable service under this section by contributing to the system a single payment equal to 25 percent of the estimated cost of the additional projected retirement benefits the member or surviving spouse will be entitled to receive. The system will determine the required contribution based on a procedure recommended by the actuary and approved by the board.

(5) After the eligible member or eligible surviving spouse makes

the deposit required by this section, the system shall grant the member one month of creditable service for each month of military service established by this section.

(6) For purposes of this section, an eligible surviving spouse is the surviving spouse of a member who was an eligible member immediately before the time of death if the member dies before making payment to the system of the amount required by this section. An eligible surviving spouse may establish creditable service for military service not later than the date that is six months after the date of the member's death and only if the lump-sum death benefit described by Section 6.05(a) or 6.06(a)(3) of this Act is not paid.

(b) The percent used to calculate the amount of the required payment described by Subsection (a)(4) of this section may be changed if:

(1) the effect of the change is disclosed by the board's actuary;

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

(3) the change applies to all payments for establishing creditable service under this section made to the system after the effective date of the change.

(c) A member may not receive credit under this section for military service for which the person is receiving or is eligible to receive federal retirement payments based on 20 years or more of active military service or its equivalent by the member or for which the member has received credit in any other public retirement system or program established under the laws of this state.

(d) The police retirement board may by rule establish additional requirements that a person must meet in order to receive credit under this section.

(e) The police retirement board may by rule provide that no person may receive credit under this section after a date set forth in that rule.

Sec. 5.03. PROBATIONARY SERVICE CREDIT. (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 commission date 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.

(b) For purposes of this section, an eligible member is a police officer employed by the city who is not separated from active service.

(c) For purposes of this section, an eligible surviving spouse is the surviving spouse of a member who was an eligible member immediately before the time of death if the member dies before making payment to the system of the amount required by this section. An eligible surviving spouse may establish creditable service for probationary service not later than the date that is six months after the date of the member's death and only if the lump-sum death benefit described by Section 6.05(a) or 6.06(a)(3) of this Act is not paid.

(d) The method of determining the amount of the required payment described by Subsection (a)(2) of this section may be changed if:

(1) the effect of the change is disclosed by the board's actuary;

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

(3) the change applies to all payments for establishing creditable service under this section made to the system after the effective date of the change.

Sec. 5.04. CADET SERVICE CREDIT. (a) 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 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.

(b) Subsections (c), (d), (e), and (f) of this section take effect on the date on which the changes made by those subsections are approved by the board's actuary. The effective date of those subsections may not be before the date the city council makes the irrevocable authorization described by Subsection (a) of this section.

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

(1) Cadet service creditable in the system is any service while a member of a cadet class 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 cadet class for which creditable service is being established and ends with 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 Subsection (c)(2) of this section, the system shall grant the member one month of creditable service for each month of cadet service established under this section.

(d) For purposes of Subsection (c) of this section, an eligible member is a police officer employed by the city who is not separated from active service.

(e) For purposes of Subsection (c) of this section, an eligible surviving spouse is the surviving spouse of a member who was an eligible member immediately before the time of death if the member dies before making payment to the system of the amount required by this section. An eligible surviving spouse may establish creditable

service for cadet service not later than the date that is six months after the date of the member's death and only if the lump-sum death benefit described by Section 6.05(a) or 6.06(a)(3) of this Act is not paid.

(f) The method of determining the amount of the required payment described by Subsection (c)(2) of this section may be changed if:

(1) the effect of the change is disclosed by the board's actuary;

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

(3) the change applies to all payments for establishing creditable service under this section made to the system after the effective date of the change.

Sec. 5.05. PERMISSIVE SERVICE CREDIT. (a) The police retirement board may by rule provide that a member or eligible surviving spouse of a member, or a deceased member's designated beneficiary if there is no surviving spouse, may establish creditable service by depositing with the retirement system the actuarial present value, at the time of deposit, of the additional life annuity (modified cash refund) defined in Section 6.01 of this Act that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees. The police retirement board may also by rule provide that a member or eligible surviving spouse of a member, or a deceased member's designated beneficiary if there is no surviving spouse, may establish creditable service by depositing with the retirement system the actuarial present value, at the time of deposit, of the additional deferred life annuity (modified cash refund) that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees. As used in this section, a "deferred life annuity (modified cash refund)" means a series of equal monthly payments, payable for life after an inactive member's deferred retirement date, which is on or before the last day of the month in which the inactive member would have satisfied the eligibility requirements of Section 6.02 of this Act if the member had continued as an active-contributory member, excluding any permissive service credit established under this section and excluding any military service credit established under Section 5.02 of this Act.

(b) Prior to allowing the purchase of service credit under this

section, the police retirement board shall adopt rules relating to the maximum amount of credit which may be purchased by a person under this section, the eligibility requirements that a person must satisfy before purchasing credit under this section, and such other matters as the board considers necessary for the administration of this section.

(c) The board may not adopt a rule authorizing the purchase of credit under this section unless the board has obtained an actuarial study indicating that adoption of the rule will not cause the amortization period for the retirement system's unfunded actuarial accrued liability to exceed the maximum amortization period adopted by the Governmental Accounting Standards Board.

(d) The board may not adopt a rule authorizing the purchase of credit under this section if that rule would be inconsistent with the requirements of the Internal Revenue Code of 1986 (26 U.S.C. Section 1 et seq.) and its successors.

(e) The board may modify or repeal a rule adopted under this section. A modification of a rule adopted under this section must comply with the requirements of this section.

(f)(1) At the time a member establishes creditable service for a deferred retirement date under this section, the member may file with the board the member's written statement either selecting one of the optional benefits authorized by this Act and designating the beneficiary of the option if one is selected or stating that the member has been afforded an opportunity to select an option but does not desire to do so. An option selection becomes effective at the member's date of deferred retirement. The member retains the right to make a final selection until the date of deferred retirement. The final selection is binding on all parties.

(2) If the member dies before the date of deferred retirement but after filing the written statement selecting one of the optional benefits, the member's survivor benefit is calculated as if the member had retired on the date of deferred retirement under the optional benefit selected and died the next day.

(3) In the event a member who is eligible for a deferred retirement dies before the deferred retirement date without making a written selection of an option listed in Section 6.03 of this Act and the member has a spouse surviving, the surviving spouse of the member may select the optional form of a survivor benefit in the same manner as if the member had made the selection on the member's scheduled

date of deferred retirement or may select a lump-sum payment equal to the accumulated deposits standing to the member's credit in Fund No. 1 plus an equivalent amount from Fund No. 2. If the member does not have a surviving spouse, the member's beneficiary or, if no beneficiary exists, the executor or administrator of the member's estate is entitled to select either an Option V survivor benefit (15-Year Certain and Life Annuity), effective on the member's scheduled date of deferred retirement, or a lump-sum payment equal to the accumulated deposits standing to the member's credit in Fund No. 1 plus an equivalent amount from Fund No. 2.

(4) When monthly survivor benefits are payable as a result of the death of a member before the member's deferred retirement date, an additional sum of $10,000 is payable as a death benefit to the member's beneficiary or, if no beneficiary exists, to the member's estate.

ARTICLE VI

Sec. 6.01. SERVICE RETIREMENT BENEFITS AND INCREASES IN BENEFITS. (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 the product of 2.88 percent of a member's average final compensation multiplied by the number of months of creditable service. 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

(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.

(b) An annuity shall be considered as a life annuity (modified cash refund) with the first monthly payment due at the end of the month immediately following the member's retirement date, but the amounts of these and all other benefits payable under this Act shall be subject at all times to such adjustments as may be required to ensure actuarial soundness as may be approved by the actuary and adopted by the board, except that annuities already granted may not be reduced below the base retirement amount granted at time of retirement.

(c) Subject to the conditions, limitations, and restrictions set forth in this subsection, as well as all other pertinent conditions, limitations, and restrictions set forth elsewhere in this Act, the board shall have the power to authorize an annual cost of living adjustment (hereinafter referred to as "adjustment") payment which, once authorized, shall be paid out monthly and which shall be added to the current monthly payment of all retirement annuities of each and every member of the police retirement system who has retired or those of the members' surviving spouses or beneficiaries who have become entitled to benefits on or before December 31 of any preceding year. Before January 1 of each year, the board shall make a separate determination of whether to authorize the payment of an annual adjustment and the amount of the adjustment, if any. These adjustments shall be paid monthly beginning January 31 of the succeeding calendar year.

(d) In determining whether to authorize the payment and the amount of any annual adjustment, 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, the actuary must approve and recommend such an adjustment 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) 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.

(e) The following terms and definitions shall be used in construing the meaning of this section:

(1) "Base retirement amount" means that monthly retirement amount calculated under this Act at the time of actual retirement, reduced for the optional form selected under Section 6.03(a) of this Act, and further reduced, if appropriate for the optional form selected, if the member or the member's beneficiary has died.

(2) "Consumer price index" means the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics, United States Department of Labor, or its successor in function.

(3) "Continuity of the system" means the ability of the police retirement system to continue to meet all of its purposes, to continue to thrive and grow along with the economy of the United States, the State of Texas, and the city, or to be able to sustain itself and its beneficiaries during and throughout periods of deflation or recession in that economy.

(f) For purposes of this section, compensation of each noneligible member taken into account under this Act may not exceed

$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 $200,000 limit 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.

Sec. 6.02. ELIGIBILITY FOR SERVICE RETIREMENT. (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.

(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;

(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.

(c) Any member, irrespective of the number of years of creditable service, shall be eligible for service retirement after attaining the age of 62 years. No member shall be paid any benefits by the system so long as the member is employed by the city as a police officer or by the system as an employee of the system's administrative staff.

Sec. 6.03. ANNUITY OPTIONS. (a) In lieu of the life annuity (modified cash refund) defined in Section 6.01 of this Act, a member attaining eligibility for service retirement may file a duly acknowledged written designation which, if approved by the board, shall entitle the member to receive the actuarial equivalent of the life annuity by electing one of the following options:

OPTION I. Joint and 100 Percent Survivor Annuity. A reduced annuity payable to the member but with the provision that on the member's death, the annuity shall be continued throughout the life of and be paid to such person that the member shall irrevocably designate before the member's retirement date.

OPTION II. Joint and 50 Percent Survivor Annuity. A reduced annuity payable to the member but with the provision that on the member's death, one-half of the annuity shall be continued throughout the life of and be paid to the person that the member shall irrevocably designate before the member's retirement date.

OPTION III. Joint and 66-2/3 Percent Survivor Annuity. A reduced annuity payable to the member but with the provision that on the member's death, two-thirds of the annuity shall be continued throughout the life of and be paid to the person that the member shall irrevocably designate before the member's retirement date.

OPTION IV. Joint and 66-2/3 Percent Last Survivor Annuity. A reduced annuity payable to the member but with the provision that two-thirds of the annuity to which the member would be entitled shall be continued throughout the life of and be paid to the survivor after the death of either the member or the person that the member shall irrevocably designate before the member's retirement date.

OPTION V. 15-Year Certain and Life Annuity. A reduced annuity shall be payable to the member for life. In the event of the member's death before 180 monthly payments have been made, the remainder of the 180 payments are payable to the member's beneficiary or, if one does not exist, to the member's estate.

(b) The amount of the annuity payment in Options I, II, III, IV, and V shall be determined without considering the minimum cumulative payment of the retired member's accumulated deposits since that refund feature will stay in effect as indicated in Subsection (b), Section 6.06, of this Act.

Sec. 6.04. TERMINATION PRIOR TO RETIREMENT; TREATMENT OF ACCUMULATED DEPOSITS. (a) On employment termination, the member shall receive the amount of the accumulated deposits standing to the member's credit in one lump sum, except that if such member has had at least 10 years of creditable service at the time the member separates from service, the member shall have a right to elect to leave the member's accumulated deposits with the police retirement system until such time as the member shall have applied in writing for service retirement and shall have attained an age at which the member shall have become entitled to receive a service retirement benefit under this Act, at which time the member shall be entitled to a service retirement benefit computed under the formula in Section 6.01(a) of this Act in effect on the last day of the month immediately preceding the month of the first benefit payment.

(b) If a member who has attained age 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 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.

Sec. 6.05. DEATH OF A MEMBER; TREATMENT OF ACCUMULATED DEPOSITS. (a) In the event of death of a member who is ineligible for retirement, the accumulated deposits standing to the member's credit in Fund No. 1 and an equivalent amount from Fund No. 2 shall be payable in a lump sum to the member's beneficiary or, if no beneficiary, to the member's estate, unless the member shall have directed otherwise in writing duly acknowledged and filed with the board. The lump sum may not be less than $10,000. When the $10,000 minimum is payable, the amount payable from Fund No. 2 is $10,000 minus the accumulated deposits standing to the member's credit in Fund No. 1.

(b) Seven years after a member separates from service with less than 10 years' service, if no previous demand has been made, any accumulated deposits standing to the member's credit shall be returned to the member or to the member's estate, but if the contributor or the member's personal representative cannot be found or if the member dies without leaving heirs or legatees, the member's accumulated deposits shall thereafter become a part of Fund No. 2.

(c) In the event of death of a member receiving a retirement benefit, the sum of $10,000 shall be payable in a lump sum to the member's beneficiary or, if no beneficiary, to the member's estate, unless the member shall have directed otherwise in writing, duly

acknowledged and filed with the board. The payment under this subsection shall be made from the retiree death benefits fund described in Section 6.08 of this Act.

Sec. 6.06. SELECTING OPTIONS; DESIGNATING BENEFICIARIES. (a) (1) Within one year prior to the date on which a member becomes eligible for service retirement under any provision of this article, the member may file with the board the member's written statement either selecting one of the optional benefits authorized by this Act and designating the beneficiary of the option if one is selected or stating that the member has been afforded an opportunity to select an option but does not desire to do so. An option selection shall become effective at the member's date of eligibility for service retirement. The member shall retain the right to make a final selection until the date of retirement. The final selection shall be binding on all parties.

(2) After filing the written statement selecting one of the optional benefits, the member may continue in service and thereafter retire any time after eligibility by filing a written application for service retirement. If the member dies before retirement but after becoming eligible for service retirement, the member's survivor benefit is calculated as if the member had retired on the last day of the calendar month of death under the optional benefit selected.

(3) In the event a member who is eligible for service retirement dies without making a written selection of one of the options listed in Section 6.03 of this Act and if the member leaves a spouse surviving, then the surviving spouse of such member may select the optional form of the survivor benefit in the same manner as if the member had made the selection or may select a lump-sum payment equal to the accumulated deposits standing to the member's credit in Fund No. 1 plus an equivalent amount from Fund No. 2. If the member leaves no spouse surviving, then the member's beneficiary, or if no beneficiary exists, the executor or administrator of the estate of the member, is entitled to elect either an Option V survivor benefit (15-Year Certain and Life Annuity), effective the last day of the calendar month in which the death of the member occurs, or a lump-sum payment equal to the accumulated deposits standing to the member's credit in Fund No. 1 plus an equivalent amount from Fund No. 2. In the event of the death of the surviving spouse before having received survivor benefits equal to the amount of the member's accumulated deposits at date of the member's death, the excess of such

accumulated deposits over the survivor benefits paid shall be refunded in one sum to the member's estate.

(4) When monthly survivor benefits are payable as a result of the death of a member before retirement, an additional sum of $10,000 shall be payable as a death benefit to the member's beneficiary or, if no beneficiary exists, to the member's estate.

(b) In the event of death of the retired member under any retirement option and the death of the person irrevocably designated by the retired member when Option I, Option II, Option III, Option IV, or Option VI, as that option existed before the amendment of Section 6.03(a) of this Act by H.B. No. 1242 or S.B. No. 588, Acts of the 75th Legislature, Regular Session, 1997, as described in Section 6.03 of this Act is in effect, before monthly retirement benefits have been received that are equal to or greater than the retired member's accumulated deposits, then the member's estate will receive the excess of the retired member's accumulated deposits over the retirement benefits paid.

Sec. 6.07. RETROACTIVE DEFERRED RETIREMENT OPTION PLAN. (a) The retroactive deferred retirement option plan, referred to as RETRO DROP, is an option a member eligible for service retirement based on 23 years of creditable service, excluding any military service established under Section 5.02 of this Act, may elect at retirement subject to the conditions of this section. The number of years of creditable service required for this option to be available to a member may be changed if the change:

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

(2) is approved by the board as a board rule;

(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 to participate in RETRO DROP on the effective date of the change.

(b) The member shall select the RETRO DROP benefit computation date. The date:

(1) must be the last day of the month used for the purpose of determining the monthly retirement benefit;

(2) may not precede the date the member first became eligible for service retirement based on the years of creditable service required under Subsection (a); and

(3) may not precede the date of retirement by more than 36 months.

(c) On the election of RETRO DROP and the selection of the RETRO DROP benefit computation date, the member's monthly life annuity (modified cash refund) is computed according to Section 6.01 of this Act as if the member had retired on the RETRO DROP benefit computation date but including any creditable service established after that date under Section 5.02, Section 5.03, or Section 5.04 of this Act. In lieu of the life annuity (modified cash refund) defined by Section 6.01 of this Act, the member may file a duly acknowledged written designation to elect one of the annuity options described by Section 6.03 of this Act in effect at retirement that are actuarially equivalent at the RETRO DROP benefit computation date.

(d) The RETRO DROP benefit accumulation period includes each month from the month following the RETRO DROP benefit computation date through the month of retirement. The RETRO DROP benefit accumulates month by month during the accumulation period as the sum of:

(1) the monthly annuity amounts that would have been paid during the RETRO DROP benefit accumulation period;

(2) deposits made by the member to the police retirement system as a percent of the basic hourly earnings of the member during the RETRO DROP benefit accumulation period; and

(3) interest credited on the RETRO DROP benefit during the RETRO DROP benefit accumulation period.

(e) The first monthly annuity amount that would have been paid during the RETRO DROP benefit accumulation period is the amount defined by Subsection (c) of this section. Subsequent monthly annuity amounts that would have been paid during the RETRO DROP benefit accumulation period must include any cost-of-living increases or special ad hoc increases in annuity amounts granted in accordance with Sections 6.01(c) and (d) of this Act.

(f) The interest credited to the RETRO DROP benefit during the accumulation period shall be credited on each December 31 in the RETRO DROP benefit accumulation period in an amount equal to five percent of the amount of the RETRO DROP benefit as of January 1 of the same calendar year. If the month of retirement is other than December, the interest shall be credited for the partial year at the end of the month of retirement in an amount equal to five-twelfths of one percent of the amount of the accumulated RETRO DROP benefit as of

January 1 of that year multiplied by the number of complete months of service in that year. A complete month does not include a month in which service amounted to fewer than 15 days.

(g) A member who elects RETRO DROP receives both a monthly annuity and a RETRO DROP benefit. The first monthly annuity payment shall be on the last day of the month immediately following the month of retirement. Unless the member elects to receive partial payments of the RETRO DROP benefit as provided by Subsection (h), the member shall receive a lump-sum payment equal to the accumulated RETRO DROP benefit, which amount shall be paid to the member on the date selected by the member. The date must be a business day and must be not earlier than the last day of the month immediately following the month of retirement. If the member dies before the member receives the lump sum, the lump sum is payable to the member's beneficiary or, if no beneficiary exists, to the member's estate, unless the member has directed otherwise in a duly acknowledged writing filed with the board.

(h) Instead of a single lump-sum payment, a member may elect to receive partial payments from the member's RETRO DROP account for each calendar year in an amount elected by the member. The board may establish procedures concerning partial payments, including limitations on timing and frequency of those payments. A member who elects partial payments may, at any time, elect to receive the member's entire remaining RETRO DROP account balance in a single lump-sum payment, with the payment to be made under rules adopted by the board.

(i) If a member elects partial payments, the member's RETRO DROP account shall be credited with earnings and losses of the system under this subsection for periods after the member's retirement date and before the member's RETRO DROP account is completely distributed. The member's RETRO DROP account shall be credited with earnings or losses at an annual rate established under a rule adopted by the board. The board may change the annual rate from time to time by amending that rule.

(j) The board may modify or eliminate the RETRO DROP provisions of this section by the adoption of board rules if the modification or elimination is approved by the board's actuary and would not cause the amortization period for the retirement system's unfunded actuarial liability to exceed the maximum amortization period adopted by the Governmental Accounting Standards Board.

Sec. 6.08. RETIREE DEATH BENEFIT FUND. (a) The police retirement board shall establish a retiree death benefit fund and shall deposit in such fund contributions paid by the city to provide retiree death benefits in accordance with this section. The board may, but is not required to, credit interest to the retiree death benefit fund annually at such rate as the board may determine.

(b) The police retirement system shall pay death benefits under Section 6.05(c) of this Act only from money in the retiree death benefit fund, and the benefits are not an obligation of other funds of the retirement system.

(c) Based upon the recommendation of the system's actuary, the board shall adopt such rates and tables as are considered necessary to determine the retiree death benefit fund contribution rate of the city. At the same time as the actuary makes a valuation of the assets and liabilities of the system pursuant to Section 3.09 of this Act, the actuary shall also make an actuarial valuation of the assets and liabilities of the retiree death benefit fund, and upon recommendation by the actuary, the board shall adjust the rates and tables for the retiree death benefit fund.

(d) If at any time the amount of payments due from the retiree death benefit fund exceeds the balance of such fund, the board may direct that funds be transferred from the general retirement fund to the retiree death benefit fund in such amounts as are necessary to cover the deficiency. Any sums transferred to the retiree death benefit fund under this subsection shall be repaid to the general retirement fund of the retirement system at such time as subsequent contributions by the city have resulted in the accumulation of a sufficient amount in the retiree death benefit fund for such a repayment to appear prudent.

(e) Contributions by the city to the retiree death benefit fund shall be made at the same time as the city makes its contribution to the retirement system under Section 8.01 of this Act, and the amount of the city's contribution under Section 8.01 of this Act each pay period shall be reduced by the amount of the city's contribution to the retiree death benefit fund for that same pay period.

ARTICLE VII

Sec. 7.01. DISABILITY RETIREMENT. (a) Only members who are classified as Active-Contributory or Inactive-Contributory, pursuant to Subsection (e) of Section 4.01 of this Act, or who are approved for extended disability retirement eligibility under this subsection,

are eligible for consideration for disability retirement pursuant to this article. A member may be approved by the board for extended disability retirement eligibility only:

(1) if that member applies in writing to the board for extended eligibility on a date not earlier than the 30th day before and not later than the 30th day after the date of becoming an Active-Noncontributory member, setting forth the reason why the member should be granted the extended eligibility;

(2) if the board, in its sole discretion, approves the application for extended eligibility; and

(3) on the terms the board determines to be appropriate.

(b)(1) If a member with less than 10 years of creditable service has become mentally or physically incapacitated for the performance of the employment duties the member had immediately before incapacitation as a direct result of injuries sustained subsequent to the member's effective date of membership in the police retirement system, the member may apply for disability retirement. Such application made for or on behalf of the injured member shall show that the injury sustained was as a direct or proximate result of the performance of the member's employment duties with the city or with the system and that it is likely to result in the member's inability to perform the duties of a position offered to the member in the system, the police department, or any other department in the city that pays as much or more than the current pay of the position the member was holding on the date of the member's disability.

(2) On recommendation of physicians or vocational rehabilitation experts appointed or selected by the board that the member's incapacity is likely to result in the member's inability to perform the duties of a position offered to the member in the system, the police department, or any other department in the city that pays as much or more than the current pay of the position the member was holding at the date of the member's disability and after considering any additional evidence which the board deems relevant, the board may award such member disability retirement benefits. The decision of the board is final.

(c) If a member with more than 10 years of creditable service has become mentally or physically incapacitated for the performance of the employment duties the member had immediately before incapacitation, the member may apply for disability retirement. Such application made for or on behalf of the disabled member shall show

that the incapacity is likely to result in the member's inability to perform the duties of a position offered to such member in the system, the police department, or any other department in the city that pays as much or more than the current pay of the position the member was holding on the date of the member's disability. On recommendation of physicians or vocational rehabilitation experts appointed or selected by the board that the member's incapacity is likely to result in the member's inability to perform the duties of a position offered to the member in the system, the police department, or any other department in the city that pays as much or more than the current pay of the position the member was holding on the date of the member's disability and after considering any additional evidence which the board deems relevant, the board may award such member disability retirement benefits. The decision of the board is final.

Sec. 7.02. COMPUTATION OF DISABILITY BENEFIT. (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 average final compensation at date of disability retirement and 20 years of creditable service. The options allowed 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.

(b) For purposes of this section, in computing the actuarial equivalent for optional forms of annuity payment for disability benefits under this section, 82.5 percent of the 1965 Railroad Retirement Board Disabled Annuitants Mortality Table shall be used for members, the UP-1984 Table with an age setback of six years shall be used for beneficiaries, and interest shall be computed at a rate of 8.5 percent.

Sec. 7.03. DISABILITY BENEFIT REPORTS. (a) (1) A member receiving a disability retirement benefit is required to file a

report to the board concerning continued proof of disability one year after the date on which the board originally awarded the member disability retirement. The report shall include:

(A) a current statement of the member's physical and/or mental condition, signed by the member's attending physician; and

(B) a statement of all employment activities pursued in the preceding one-year period and a copy of federal income tax returns applicable to the one-year period.

(2) The board may verify all information submitted in this report. A disabled member shall file an annual report containing this same type of information every year thereafter on the anniversary date of the member's disability retirement; the annual report shall be filed no later than 60 days following the due date.

(b) The pension officer is responsible for a yearly report to the board listing those disabled members who should be examined. The board shall have the right to order an examination of any person on disability retirement after the member has received a disability retirement benefit for a one-year period and continuing on an annual basis thereafter until the member reaches the age of 62 years. If the member refuses to submit to an examination by physicians or vocational rehabilitation experts appointed or selected by the board or if the member refuses to submit an annual report concerning continued proof of disability, the disability retirement benefit shall be discontinued until such refusal is withdrawn.

(c)(1) If, during the first 2-1/2 years, the annual medical examination shows that the member is able to perform the duties of a position offered to the member in the system, the police department, or any other department in the city that pays as much or more than the current pay of the position the member was holding on the date of the member's disability, the board may discontinue the disability retirement benefit. If after the disabled member has received disability benefits from the system for at least 2-1/2 years the member is able to perform the duties of any occupation for which the member is reasonably suited by education, training, or experience, the board shall review and modify the disability benefit according to the following provisions:

(A) if the member is able to earn at least as much money in the member's new job as the member would have in the member's most recent position with the system or the police department, the board may terminate the member's benefit;

(B) if the member is able to earn between one-half as much money and as much money in the member's new job as the member would have in the member's most recent position with the system or the police department, the board may reduce the monthly disability benefit to one-half of its original amount; or

(C) if the member is not able to earn at least one-half as much money in the member's new job as the member would have in the member's most recent position with the system or the police department, the board may continue the benefit unchanged.

(2) If the member who received a disability benefit pursuant to Subsection (b) of Section 7.01 of this Act has the member's benefit discontinued pursuant to this provision and does not return to the employ of the system or the police department, any remaining balance of Fund No. 1 benefits will be refunded to the member. If the member who received a disability benefit pursuant to Subsection (c) of Section 7.01 of this Act has the member's benefit discontinued pursuant to this provision and does not return to the employ of the system or the police department, the member's accumulated deposits shall remain in the system, and the member shall be considered a vested noncontributory member unless the member elects a refund of the remaining accumulated deposits.

(d) If a disabled member returns to employment with the city as a police officer or to employment with the system, the disability retirement benefit shall cease. Such person shall be reinstated as an active member of the system and shall comply with all requirements. Creditable service accumulated prior to disability shall be restored to the full amount standing to the member's credit as of the date the board found the member eligible for disability retirement.

(e) The board may reinstate any disability benefit that has been previously terminated or reduced if the disabled member's condition has worsened due to the same cause for which the member was originally disabled.

ARTICLE VIII

Sec. 8.01. METHOD OF FINANCING. (a)(1) 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. Deposits required to be made by members shall be deducted from payroll. On recommendation of the board, the Active--Contributory members may by a majority of those voting increase the rate of member

deposits above 13 percent to whatever amount the board has recommended. If the deposit rate for members has been increased to a rate above 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.

(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 periods after September 30, 2012, subject to additional amounts as provided by Subdivision (3) of this subsection. 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.

(3) The city shall contribute amounts in addition to the amounts described by 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 0.25 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.

(4) The additional contribution rate under 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 subdivision. The effective date of the initial contribution rate adjustment under this subdivision is October 1, 2015. Each later contribution rate adjustment under this 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 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 subdivision may not cause the additional contribution rate under Subdivision (3) of this subsection to be less than zero.

(b) Any change of the rates of deposit and the rates of contribution shall be published when approved by the board.

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

(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.

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

(f) The city shall make the police officer contributions to the system required by 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)).

(g) If the police retirement system is terminated, further contributions may not be made by the city, 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.

(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.

(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.

ARTICLE IX

Sec. 9.01. INVESTMENTS OF THE BOARD. (a) The police retirement board shall be the trustee of the funds of the police retirement system and shall have full power in its sole discretion to invest and reinvest, alter, and change such funds. The board shall invest the funds in whatever instruments or investments the board considers prudent. In making investments for the system, the board shall discharge its duties:

(1) for the exclusive purposes of:

(A) providing benefits to members and their beneficiaries; and

(B) defraying reasonable expenses of administering the system;

(2) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(3) by diversifying the investments of the system to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(4) in accordance with the laws, documents, and instruments governing the system.

(b) No member of the board, except as herein provided, shall have any interest in, directly or indirectly, or receive any pay or emolument for the member's services. No member of the board shall, directly or indirectly, for himself or as an agent in any manner use the funds or deposits of the police retirement system except to make the current and necessary payments authorized by the board; nor shall any member of the board become an endorser or surety or in any manner an obligor for money loaned by or borrowed from the board.

(c) None of the funds or money mentioned in this Act shall be assignable. None of the funds or money mentioned in this Act shall be subject to execution, levy, attachment, garnishment, or other legal process.

(d) The right of a member to a retirement benefit, the return of accumulated deposits, the payment of a RETRO DROP lump sum, or any other right accrued or accruing to any person under the provisions of this Act, and the money in the trust created by this Act shall be unassignable except as specifically provided in this Act and shall not be subject to execution, levy, attachment, garnishment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever.

(e) Service retirement benefits, disability retirement benefits, survivor benefits, death benefits, and withdrawal benefits may be paid to a former spouse or other alternate payee under the terms of a domestic relations order, but only if the board determines that the order constitutes a qualified domestic relations order within the meaning of Chapter 804, Government Code. Benefit payments may be made to alternate payees only when and to the extent permitted by the qualified domestic relations order. The amount of any benefit payment under this Act made to an alternate payee under a qualified domestic relations order shall reduce and offset the amount otherwise payable to the member or other beneficiary under this Act. On the death of an alternate payee under a qualified domestic relations order, the interest of the alternate payee in the benefits under this Act ends, and remaining benefits shall be paid as if the qualified domestic relations order had not existed.

ARTICLE X

Sec. 10.01. FALSE REPORT OR STATEMENT. Whoever with intent to deceive shall make any statement or report required under this Act which is untrue or shall falsify or permit to be falsified any record or records of the police retirement system shall forfeit any office or rights held by the person under the system, and such deception, falsification, or acquiescence in falsification shall be deemed a misdemeanor and the violation thereof shall be punishable by a fine not to exceed $1,000.

Sec. 10.02. CORRECTION OF ERRORS. If any change or error in the records of the police retirement system should be discovered or should result in any member, retired member, surviving spouse, or beneficiary receiving from the police retirement system more or less than such member, retired member, surviving spouse, or beneficiary would have been entitled to receive had the records been correct, the police retirement board shall have the power to correct such error. Except as provided by Section 802.1024, Government Code, the retirement system shall, as far as possible, adjust the payments so that the actuarial equivalent of the benefits to which the member, retired member, surviving spouse, or beneficiary was correctly entitled shall be paid.

ARTICLE XI

Sec. 11.01. LIMITATION ON PAYMENT OF BENEFITS. (a) If the amount of any benefit payment otherwise due under this Act or the total payments due under this Act and any other qualified defined

benefit plan maintained by this city would exceed the limitations provided by Section 415(b), Internal Revenue Code of 1986, as amended, and the regulations adopted under that section, the police retirement system shall reduce the amount of the benefit paid under this Act as required to comply with that section. If the annual additions that would otherwise be allocated under this Act, or the total annual additions under this Act and any other qualified plan maintained by the city would exceed the limits under Section 415(c), Internal Revenue Code of 1986, the annual additions under this Act shall be reduced to the extent required to comply with Section 415(c), Internal Revenue Code of 1986.

(b) For purposes of determining if the benefits or annual additions satisfy the limits provided by Subsection (a) of this section, the compensation to be used is wages within the meaning of Section 3401(a), Internal Revenue Code of 1986, plus amounts deferred at the election of the member that would be included in wages if not deferred under the rules of Section 402(e)(3), 125(a), 132(f)(4), 457(b), 402(h)(1)(B), or 402(k), Internal Revenue Code of 1986. However, any rules that would limit the remuneration included in wages based on the nature or location of the employment or the services performed are disregarded for purposes of determining compensation. In addition, any wages paid after a severance from employment are not included as compensation for purposes of this subsection unless the payment is for regular pay as described in 26 C.F.R. Section 1.415(c)-2(e)(3)(ii) and is made by the later of two and one-half months after the severance from employment or the end of the calendar year that includes the date of severance from employment. If excess annual additions are made to any member's account despite the efforts of the board of trustees, the amount shall be treated in accordance with 26 C.F.R. Section 1.402(g)-1(e)(2) or (3).

(c) Notwithstanding any other provision of this Act, the applicable mortality table for purposes of adjusting a benefit due to the limitations provided under Section 415(b)(2)(B) or (D), Internal Revenue Code of 1986, is the table prescribed by Revenue Ruling 2001-62.

ARTICLE XII

Sec. 12.01. DISTRIBUTION RULES FOR SERVICE RETIREMENT AND DEATH ANNUITY PAYMENTS. (a) If a member selects, or if a member's death before retirement results in the payment of, an optional annuity

providing for payment of a fixed number of monthly payments to the member's beneficiary or estate if the member dies before the total number of payments has been completed, the option is limited as provided by Subsections (b), (c), (d), and (e) of this section.

(b) If, according to mortality tables adopted by the Internal Revenue Service, at the time of the member's retirement the joint life expectancy of the member making the selection and of the beneficiary is less than the minimum period that monthly payments would be required under the option selected, the member must select another option so that the minimum period that monthly payments would be required does not exceed the joint life expectancy of the person making the selection and of the beneficiary.

(c) If, according to mortality tables adopted by the Internal Revenue Service, the life expectancy of a person to whom a benefit will be paid as the result of a member's death before retirement is less at the time of the member's death than the minimum period that monthly payments would be required under the option selected, the system shall adjust the minimum period that monthly payments will be required to a period that is not less than 60 months and that is the greatest multiple of 12 months that does not exceed the life expectancy of the person to whom the benefit will be paid. The amount of the monthly payment shall be adjusted to the actuarial equivalent of the payments that would be made for the greater number of months.

(d) If the member making the selection designates the member's estate as beneficiary and if, according to mortality tables adopted by the Internal Revenue Service, the life expectancy of that member is less than the minimum period that monthly payments would be required under the option selected, the member must select another option so that the minimum period that monthly payments would be required does not exceed the member's life expectancy at the time of the member's retirement.

(e) If an estate will be paid monthly benefits as the result of a member's death before retirement for a period that would exceed 60 months, the period for which the payments will be made shall be reduced to 60 months, and the amount of the monthly payment to the estate is the actuarial equivalent of the payments that would have been made for the greater number of months.

(f) If a member selects an optional annuity that is payable after the retiree's death throughout the life of a beneficiary who is

not the retiree's spouse, payments to the beneficiary after the retiree's death may not exceed the applicable percentage of the annuity payment that would have been payable to the retiree using the following table:

Excess of age of member over age of beneficiary:	Applicable percentage:
10 years or less	100 percent
more than 10 years but less than 25 years	67 percent
25 years or more	50 percent

(g) Unless the member's spouse is the beneficiary of an optional annuity that guarantees a fixed number of monthly payments, the guaranteed number of payments may not exceed the applicable period using the following table:

Age of member at retirement:	Maximum number of guaranteed monthly payments:
less than 84	180
at least 84 but less than 91	120
91 or more	60

Sec. 12.02. DISTRIBUTION RULES FOR DISABILITY ANNUITY PAYMENTS. (a) If a member selects an optional annuity providing for payment of a fixed number of monthly annuity payments to the member's beneficiary or estate if the member dies before the total number of payments has been completed, the option is limited as provided by Subsections (b) and (c) of this section.

(b) If, according to mortality tables adopted by the Internal Revenue Service, at the time of the member's retirement the joint life expectancy of the member making the selection and of the beneficiary is less than the minimum period that monthly payments would be required under the option selected, the member must select another option so that the minimum period that monthly payments would be required does not exceed the joint life expectancy of the person making the selection and of the beneficiary.

(c) If the member making the selection designates the member's estate as beneficiary and if, according to mortality tables adopted by the Internal Revenue Service, the life expectancy of that member is less than the minimum period that monthly payments would be

required under the option selected, the member must select another option so that the minimum period that monthly payments would be required does not exceed the member's life expectancy at the time of the member's retirement.

(d) If a member selects an optional annuity that is payable after the retiree's death throughout the life of a beneficiary who is not the retiree's spouse, payments to the beneficiary after the retiree's death may not exceed the applicable percentage of the annuity payment that would have been payable to the retiree using the following table:

Excess of age of member over age of beneficiary:	Applicable percentage:
10 years or less	100 percent
more than 10 but less than 25 years	67 percent
25 years or more	50 percent

(e) Unless the member's spouse is the beneficiary of an optional annuity that guarantees a fixed number of monthly payments, the guaranteed number of payments may not exceed the applicable period using the following table:

Age of member at retirement:	Maximum number of guaranteed monthly payments:
less than 84	180
at least 84 but less than 91	120
91 or more	60

ARTICLE XIII

Sec. 13.01. TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS. (a) Notwithstanding any provision of this Act to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) In this section:

(1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

(A) any distribution that is one of a series of substantially equal periodic payments made at least annually for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and distributee's beneficiary, or for a specified period of 10 years or more;

(B) any distribution to the extent the distribution is required under Section 401(a)(9) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401); or

(C) the portion of any distribution that is not includible in gross income.

(2) "Eligible retirement plan" means an individual retirement account described by Section 408(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 408), an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 408), an annuity plan described in Section 403(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403), a qualified trust described in Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401), an annuity contract described by Section 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403), or an eligible plan under Section 457(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 457), that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state that agrees to separately account for amounts transferred from the plan, provided that any of the vehicles described above accepts the distributee's eligible rollover distribution. The term applies to a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order within the meaning of Chapter 804, Government Code. In the case of an eligible rollover distribution to a non-spouse beneficiary, an eligible retirement plan includes only an individual retirement account or individual retirement annuity described above.

(3) "Distributee" means a member or former member, the member's or former member's surviving spouse, the member's or former member's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as prescribed by Section 804.003, Government Code, or the member's or former member's non-spouse beneficiary.

(4) "Direct rollover" means a payment by this system to the eligible retirement plan specified by the distributee.

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 at least 70-1/2 years of age.

Acts 1991, 72nd Leg., ch. 452, eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 40, Sec. 1 to 18, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 301, Sec. 1 to 27, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 563, Sec. 1 to 5, eff. Sept. 1, 1999; 1999, 76th Leg., ch. 1131, Sec. 1 to 5, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 169, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 716, Sec. 1 to 4, eff. Sept. 1, 2001.
Sec. 5.02(d) and (e) added by Acts 2003, 78th Leg., ch. 370, Sec. 1, eff. Sept. 1, 2003; Sec. 5.05 added by Acts 2003, 78th Leg., ch. 370, Sec. 2, eff. Sept. 1, 2003; Sec. 6.05(c) amended by Acts 2003, 78th Leg., ch. 370, Sec. 3, eff. Sept. 1, 2003; Sec. 6.07(j) amended by Acts 2003, 78th Leg., ch. 370, Sec. 4, eff. Sept. 1, 2003; Sec. 6.08 added by Acts 2003, 78th Leg., ch. 370, Sec. 5, eff. Sept. 1, 2003; Sec. 10.02 amended by Acts 2003, 78th Leg., ch. 416, Sec. 3, eff. June 20, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1413 (H.B. 1318), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1413 (H.B. 1318), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1413 (H.B. 1318), Sec. 3, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1413 (H.B. 1318), Sec. 4, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1413 (H.B. 1318), Sec. 5, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1413 (H.B. 1318), Sec. 6, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1413 (H.B. 1318), Sec. 7, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1413 (H.B. 1318), Sec. 8, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1413 (H.B. 1318), Sec. 9, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1413 (H.B. 1318), Sec. 10, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 700 (H.B. 2796), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 700 (H.B. 2796), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 700 (H.B. 2796), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 700 (H.B. 2796), Sec. 4, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 195, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1353 (S.B. 1285), Sec. 1, eff. September 1, 2011.

Art. 6243o. POLICE AND FIRE FIGHTER RETIREMENT SYSTEM IN MUNICIPALITIES OF 750,000 TO 1,000,000.

ARTICLE 1. GENERAL PROVISIONS

Sec. 1.01. PURPOSE. The purpose of the fund is to provide for the protection of pensions in a municipality to which this Act applies for fire fighters and police officers and their beneficiaries because of the hazardous nature of the professions of fire fighting and law enforcement.

Sec. 1.02. DEFINITIONS. In this Act:

(1) "Active member" means a fire fighter or police officer who is a current contributing member of the fund.

(1-a) "Alternate payee" has the meaning assigned by Section 804.001, Government Code, or any successor statute.

(2) "Average total salary" means the aggregate total salary, as defined by Subdivision (17) of this section, received by a member during the three years of the five-year period ending on the date of the member's service or disability retirement or death in which the member's total salary is highest, divided by three.

(3) "Beneficiary" means the surviving spouse, dependent child, or dependent parent of a deceased member or retiree.

(4) "Board" means the board of trustees of a fund to which this Act applies.

(4-a) "Catastrophic injury" means irreparable physical

bodily injury sustained by a member as a direct and immediate result of the member's engaging in an activity that:

(A) constitutes the performance of the member's duties as a firefighter or police officer;

(B) involves an extraordinary degree of risk of bodily injury or death; and

(C) does not result in death.

(4-b) "Class" means the trainee class of a fire fighter or police officer training academy of a municipality to which this Act applies from which a member graduated, as determined by the board.

(4-c) "Class graduation date" means the date the graduates of any class graduated, as determined by the board.

(5) "Code" means the United States Internal Revenue Code of 1986.

(6) "Department" means the fire department of a municipality to which this Act applies, the police department of a municipality to which this Act applies, or both the fire department and the police department of such a municipality.

(7) "Dependent child" means:

(A) a person who is less than 18 years of age and is a child of a deceased member or deceased retiree; or

(B) a person:

(i) who is at least 18 years of age;

(ii) who is mentally or physically disabled to the extent that the person is not capable of being self-supporting; and

(iii) whose natural or adoptive parent is a deceased member or deceased retiree, provided that, for the year immediately preceding the death of the member or retiree, the deceased member or retiree claimed the person as a dependent on the member's or retiree's federal income tax return.

(8) "Dependent parent" means a person who is the natural parent of a deceased member or deceased retiree or who adopted a deceased member or deceased retiree before the deceased member's or retiree's 18th birthday if, for the year immediately preceding the death of the member or retiree, the deceased member or retiree claimed the person as a dependent on the member's or retiree's federal income tax return.

(8-a) "Disability" means a regular disability under Section 5.03(a) of this Act or a catastrophic injury disability under Section 5.03(a-1) of this Act.

(9) "Fire fighter" means an employee of the fire department who is classified as a fire fighter by the personnel department of the municipality.

(10) "Fund" means the fire fighters and police officers pension fund of a municipality to which this Act applies.

(11) "Member" means a fire fighter or police officer who has become a member of the fund as provided by Section 4.01(a) or 4.011 of this Act and has not retired, died, or forfeited the person's interest in the fund.

(11-a) "Member buyback contribution amount" means the amount of the first contribution by a member to the fund for a full pay period, multiplied by 26, divided by 12, and multiplied by 3.

(12) "Police officer" means an employee of the police department who is classified as a police officer by the personnel department of the municipality.

(12-a) "Probationary period" means the period beginning on the graduation date of a graduate of a class and ending on the date the graduate becomes a member.

(12-b) "Qualified funds" means pretax funds that are part of an eligible rollover distribution, as described in Section 402(f)(2) of the code, or funds that have been transferred to the fund in accordance with Section 403(b)(13) or Section 457(e)(17) of the code to purchase years or fractions of years of service.

(12-c) "Qualified mayoral designee" means an individual designated by the mayor of a municipality to which this Act applies who is a member or former member of the city council of, or an employee of, a municipality to which this Act applies.

(13) "Retiree" means a member who has terminated employment with the department with a right to a service retirement pension as provided by Section 5.01 of this Act or a disability retirement pension as provided by Section 5.03 of this Act.

(14) "Retirement" means the period that a retiree is entitled to receive service retirement benefits or disability retirement benefits.

(15) "Retirement annuity" means pension benefits payable to a retiree on an annual basis in accordance with this Act.

(16) "Surviving spouse" means a widow or a widower of a member or retiree who was married to the member or retiree at the time of the member's or retiree's death.

(17) "Total salary" means all salary of a member, except:

(A) overtime pay, field training officer's pay, bomb squad pay, SWAT team pay, K-9 pay, and hostage team pay; and

(B) pay for unused accrued vacation and sick leave, holiday pay, compensatory time pay, and bonus days leave, or any similar items of compensation that may be paid in the future.

(18) "Years of service" means a member's total years of service, including fractional years or full months of service, computed as provided by Section 5.01 of this Act.

Sec. 1.03. APPLICABILITY. This Act applies to paid fire and police departments of a municipality with a population between 1.3 million and 1.5 million.

Sec. 1.04. STATUTORY TRUST. (a) The fund is a statutory trust and is not a subdivision of government.

(b) The board shall hold in trust the assets of the fund for the exclusive benefit of the members and retirees of the fund and their beneficiaries and for defraying reasonable administrative expenses of the fund.

(c) The fund may not be diverted, transferred, or used for any purpose inconsistent with this Act and with the instruments governing the fund.

(d) A public or private entity, agency, or authority may not alter or impair any contract made by the board or under the authority or direction of the board.

(e) The fund is independent of the control of a municipality to which this Act applies.

Sec. 1.05. EXEMPTIONS. (a) An amount payable from the fund is exempt from garnishment, assignment, attachment, judgments, other legal process, and inheritance or other taxes established by this state.

(b) Fund assets are exempt from attachment, execution, alienation, and forced sale. A judgment lien or abstract of judgment may not be filed or perfected against the fund on fund assets. A judgment lien or abstract of judgment filed against the fund on fund assets is void.

Sec. 1.06. OTHER PENSION SYSTEM ESTABLISHED BY STATE LAW. Notwithstanding any other law, if the employees of the fire or police department who have been members of the fund are included in another pension system established by state law, the board shall act for any similar board created by that law with regard to the receipt and payment of amounts owed to the employees under this Act. Employees

of a department who are members of the fund and are not included in the other pension system may not participate in any payment under this section.

Sec. 1.07. CONSTRUCTION OF ACT. This Act does not provide any benefit that is not specifically provided by this Act.

ARTICLE 2. ADMINISTRATIVE PROVISIONS

Sec. 2.01. BOARD OF TRUSTEES. (a) The fund is governed by a board of trustees consisting of the following nine members:

(1) the mayor of a municipality to which this Act applies or a qualified mayoral designee;

(2) two members of the governing body of a municipality to which this Act applies, appointed by that governing body;

(3) two active members who are fire fighters below the rank of fire chief, elected by secret ballot by a majority of the votes cast by the members of the fire department;

(4) two active members who are police officers below the rank of police chief, elected by secret ballot by a majority of the votes cast by the members of the police department;

(5) a retiree representative of the fire department, elected by secret ballot by a majority of the votes cast by the retirees of the fire department and the surviving spouses who are receiving benefits with respect to deceased members or retirees of the fire department; and

(6) a retiree representative of the police department, elected by secret ballot by a majority of the votes cast by the retirees of the police department and the surviving spouses who are receiving benefits with respect to deceased members or retirees of the police department.

(b) The board, through its secretary, shall administer the required elections of the active member and retiree representatives by mailing ballots to all eligible members, retirees, or beneficiaries. Only retirees and surviving spouses who are currently receiving benefits from the fund are eligible to vote for the retiree representatives. If no candidate receives a majority of the votes cast for any trustee position, the board shall hold a run-off election in which the only candidates are the candidates who received the highest and second-highest number of votes cast. If a candidate for trustee is unopposed in an election, the board shall certify the candidate as elected to the board on the executive director's certification that the candidate is eligible and is unopposed for

election.

Sec. 2.02. TERMS OF TRUSTEES. (a) The mayor of a municipality to which this Act applies, or a qualified mayoral designee, serves on the board for the term of the mayor's office except that, if the mayor appoints a mayoral designee, the mayor may replace or remove that mayoral designee at the mayor's discretion. An individual designated by the mayor to serve on the board under this subsection may only serve on the board while the individual is a qualified mayoral designee.

(b) The two members of the municipal governing body serve on the board for the term of the office to which they are elected.

(c) The two active fire fighters below the rank of fire chief serve on the board for staggered four-year terms, with one member's term expiring every two years.

(d) The two active police officers below the rank of police chief serve on the board for staggered four-year terms, with one member's term expiring every two years.

(e) The retiree representatives serve on the board for staggered four-year terms, with one member's term expiring every two years.

Sec. 2.03. RESIGNATION OR REMOVAL OF TRUSTEES. (a) The members of the board who are fire fighters or police officers may resign or may be removed by a vote of the membership of their respective departments.

(b) The members of the board who are retiree representatives may resign or may be removed by a vote of the group eligible to elect them.

(c) A petition for removal under this section must be filed with the board within 45 days after the date the first signature on the petition is obtained. A signature is invalid if it is not dated.

(d) A removal election under this section must be held and completed within 90 days after the date the board certifies that a proper petition for a removal election has been signed by at least 20 percent of the membership from which the trustee was elected. A trustee's term of service ends on the entry of an order by the board declaring that a majority of the votes cast in a removal election under this section favor removal.

(e) On the date the board enters an order under Subsection (d) of this section, the board shall call a special election to fill the vacancy for the unexpired term of the trustee who was removed. The trustee who was removed is not eligible to run in the special

election but is eligible to run in all subsequent board elections.

Sec. 2.04. OFFICERS. (a) The board shall elect from the trustees a presiding officer, an assistant presiding officer, and a secretary.

(b) Repealed by Acts 2005, 79th Leg., Ch. 623, Sec. 13, eff. October 1, 2005.

Sec. 2.05. EMPLOYEES. The board may employ an executive director and staff as needed to administer the fund.

Sec. 2.06. MEETINGS; QUORUM. (a) The board shall hold regular monthly meetings and special meetings at the call of the presiding officer or on written demand by a majority of the members of the board.

(b) A quorum of the board is five members. When a quorum is present, action of the board that requires a vote may be taken by a majority of the members present. Any action taken by less than a quorum is not binding on the board.

Sec. 2.07. COMMITTEES OF BOARD. (a) The presiding officer of the board may appoint committees that report to the board.

(b) Only members of the board may be appointed to committees under this section.

(c) Committees shall be composed of three or four members of the board, except as otherwise specifically provided by the board.

(d) Only members of committees may vote as committee members.

(e) The board may direct staff and advisors to assist the committees.

(f) Members of committees serve at the pleasure of the board.

(g) Permanent or standing committees may be appointed.

ARTICLE 3. GENERAL POWERS AND DUTIES OF BOARD

Sec. 3.01. GENERAL POWERS AND DUTIES OF BOARD. (a) The board has complete authority and power to:

(1) administer the fund for the exclusive benefit of all members, retirees, and beneficiaries;

(2) order payments from the fund as required by this Act;

(3) control the fund independently;

(4) conduct all litigation on behalf of the fund; and

(5) purchase with fund assets from one or more insurers licensed to do business in this state one or more insurance policies that provide for reimbursement of the fund and any trustee, officer, or employee of the board for liability imposed or damages because of an alleged act, error, or omission committed in the trustee's,

officer's, or employee's capacity as a fiduciary officer or employee of the fund and for costs and expenses incurred as a trustee, officer, or employee in defense of a claim for an alleged act, error, or omission, as long as the insurance policy does not provide for reimbursement of a trustee, officer, or employee for liability imposed or expenses incurred because of the trustee's, officer's, or employee's personal dishonesty, fraud, lack of good faith, or intentional failure to act prudently.

(b) If the insurance coverage described by Subsection (a)(5) of this section is insufficient or is not in effect, the board may indemnify a person for liability, damages, and reasonable legal expenses that result from an alleged act, error, or omission occurring in the person's capacity as a trustee, officer, or employee of the fund without regard to the time of the occurrence of the allegation or whether the person continues to serve in that capacity. The board may not indemnify an individual because of the individual's dishonesty, fraudulent act, lack of good faith, or intentional failure to act prudently.

(c) Indemnification under Subsection (b) of this section shall be determined by a majority vote of trustees who are not the subject of the indemnification. The board may adopt a policy for the presentation, approval, and payment of indemnification claims covered under Subsection (b) of this section.

(d) The board shall adopt rules necessary for the board's effective operation, including rules relating to:

(1) the disbursement of the fund's assets;

(2) the designation of beneficiaries of the fund; and

(3) the name of the board and the fund.

(e) The board shall report annually to the governing body of the municipality regarding the condition of the fund and the receipts and disbursements of the fund.

(f) Attendance by any number of the trustees at a conference or gathering to research prospective investments or review current ones, to attend professional training, or otherwise attend to their fiduciary responsibilities, during which no formal discussion of public business takes place and no formal action is taken, is not a deliberation or meeting within the meaning of Chapter 551, Government Code, and is not required to be open to the public.

(g) A trustee of the fund is immune from liability for an action or omission made by the trustee in the performance of the

trustee's official duties for the fund that is made in good faith.

(h) Records that are in the custody of the board concerning a member, former member, retiree, deceased retiree, beneficiary, or alternate payee are not public information under Chapter 552, Government Code, and may not be disclosed in a form identifiable to a specific individual unless:

(1) the information is disclosed to:

(A) the individual or the individual's attorney, guardian, executor, administrator, or conservator, or another person whom the executive director determines from written documentation to be acting in the interest of the individual or the individual's estate;

(B) a spouse or former spouse of the individual, if the executive director determines that the information is relevant to the spouse's or former spouse's interest in a member's accounts or benefits or other amounts payable by the pension system;

(C) a government official or employee seeking the information in order to perform the duties of the official or employee; or

(D) a person authorized by the individual in writing to receive the information; or

(2) the information is disclosed under a subpoena and the executive director of the fund or the executive director's designee determines that the individual will have a reasonable opportunity to contest the subpoena.

(i) Subsection (h) of this section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree, deceased member, deceased retiree, beneficiary, or alternate payee of the fund.

(j) A determination and disclosure under Subsection (h) of this section does not require notice to the individual member, retiree, beneficiary, or alternate payee.

Sec. 3.02. APPLICATIONS; HEARINGS. (a) The board shall consider all cases for membership in the fund and for the retirement and benefits of the members of the fund and all applications for benefits by surviving spouses, dependent children, and dependent parents.

(b) The board shall give notice to persons asking for membership in the fund or for a benefit to appear before the board and offer sworn evidence.

(c) Any contributing member of the fund who is in good standing in the fire or police department may:

(1) appear in person or by attorney to contest the application for membership participation in the fund or for an annuity or benefit by any person claiming to be entitled to an annuity or benefit, either as a member, beneficiary, or alternate payee; and

(2) offer supporting testimony.

(d) The presiding officer of the board may issue process for witnesses, administer oaths to those witnesses, and examine any witness in any manner affecting retirement or a benefit under this Act. The process for witnesses may be served on any member of the fire or police department or any other person the board considers to be an appropriate person. On the failure of any witness to attend and testify, that person may be compelled to attend and testify as in any judicial proceeding.

(e) A person's failure to give truthful information to the board in an application or in testimony at a hearing may result in a referral for criminal investigation.

Sec. 3.03. ORDERS FOR DISBURSEMENTS OF BENEFITS. (a) The board shall issue orders for disbursements signed by the presiding officer or assistant presiding officer of the board and the secretary of the board to the appropriate persons. The order shall state the purposes for the payments. The board shall keep a record of those orders.

(b) Disbursements may not be made without a record vote of the board.

(c) Each member, retiree, beneficiary, and alternate payee shall provide bank depository information to the board so that the board can disburse benefits by electronic transfer.

(d) Except as provided by Section 802.1024, Government Code, the board may reduce the amount of a benefit to which a retiree, beneficiary, or alternate payee is otherwise entitled in order to reimburse the fund for an overpayment or incorrect payment of benefits to the retiree, beneficiary, or alternate payee.

(e) The board may pay for the cost of counseling for members of the fund regarding retirement matters.

ARTICLE 4. MEMBERSHIP AND CONTRIBUTIONS

Sec. 4.01. MEMBERSHIP. (a) A person is eligible to become a member of the fund as a condition of continued employment after the

person has received state certification as a fire fighter or police officer, completed all other requirements for membership in the fund, and:

(1) graduated from a fire fighter or police officer training academy of a municipality to which this Act applies and passed the municipality's fire fighter's or police officer's probationary exam; or

(2) otherwise satisfied the requirements for employment as a fire fighter or police officer in a municipality to which this Act applies.

(b) A person may not become eligible for disability retirement benefits unless the person has provided an authorization for release of medical information for any medical records dated on or after the date of initial application for employment or has agreed in writing to provide that authorization when requested by the board or, in the alternative if required by the board, has submitted to a physical examination by a physician selected by the board.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 234, Sec. 14, eff. October 1, 2009.

(d) The drawing of compensation by an officer or employee in the fire or police department for service in that department does not of itself make that person a member of the fund.

(e) The regularity of an appointment as a fire fighter or police officer of a municipality to which this Act applies may not be presumed from the serving of the full probationary period, if any. The service of the probationary period by an officer or employee as a fire fighter or police officer of a municipality to which this Act applies does not constitute the creation of a position or office to which a proper appointment has been made for purposes of this Act.

Sec. 4.011. MEMBERSHIP OF FIRE CHIEF AND POLICE CHIEF. (a) Subject to Subsection (d) of this section, not later than the 30th day after the date a fire chief or a police chief of a municipality to which this Act applies assumes office, the fire chief or police chief may make an irrevocable election to not become a member of the fund.

(b) An election under this section must be made by delivering written notice of the election to the secretary of the board.

(c) A fire chief or police chief who does not make an election under this section becomes a member of the fund.

(d) A fire chief or police chief who was a member of the fund

at any time during the two years preceding the date the fire chief or police chief assumes office may not make an election under this section.

Sec. 4.02. FAMILY AND MEDICAL LEAVE. (a) If a member takes unpaid leave as provided by the Family and Medical Leave Act (29 U.S.C. Section 2601 et seq.), that member is entitled to make voluntary contributions for the leave period in the same amount as the member would have paid if the member had not taken the leave. Those payments must be made not later than the 30th day after the date the member returns from that leave. A computation of contributions under this section shall be made in the same manner as other computations under this Act. A municipality to which this Act applies shall match an amount equal to twice the amount of each payment a member makes to the fund under this subsection.

(b) If the member does not comply with Subsection (a) of this section, the member loses all credit toward the member's retirement annuity for the period the member was on leave.

Sec. 4.03. UNIFORMED SERVICE. (a) A member of the fund who enters any uniformed service of the United States may not:

(1) be required to make the monthly payments into the fund provided by this Act as long as the member is engaged in active service with the uniformed service; or

(2) lose any seniority rights or retirement benefits provided by this Act by virtue of that service.

(b) Not later than the 90th day after the date of the member's reinstatement to an active status in the fire or police department, the member must file with the secretary of the board a written statement of intent to pay into the fund an amount equal to what the member would have paid if the member had remained on active status in the department during the period of the member's absence in the uniformed service.

(c) The member must make the payment described by Subsection (b) of this section in full within an amount of time after the member's return that is equal to three times the amount of time the member was absent, except that the maximum period for payment may not exceed five years.

(d) Except as provided by Subsection (f) of this section, if the member does not comply with Subsections (b) and (c) of this section, the member shall lose all credit toward the member's retirement annuity for the length of time the member was engaged in active

service in any uniformed service.

(e) The amount of credit purchased under this section may not exceed the length of the active service in a uniformed service required to be credited by law.

(f) If a person who became a member before October 1, 1997, does not make the payment required under Subsection (c) of this section within the required amount of time and the member would otherwise be eligible for credit under federal law, the member may receive credit for the uniformed service if the member also pays interest, compounded annually, on the then current rate of a member's contribution from the date the payment was required to the date the payment was made. The board shall set the rate of interest.

(g) Repealed by Acts 2003, 78th Leg., ch. 513, Sec. 10.

(h) A municipality to which this Act applies shall double-match payments made to the fund under this section.

Sec. 4.04. MEMBER CONTRIBUTIONS. (a) There shall be deducted from the total salary of each fire fighter and police officer in the employment of a municipality to which this Act applies a percentage of the member's total salary according to the following schedule:

(1) 11.16 percent for full pay periods after September 30, 1993, but before October 1, 1994;

(2) 11.32 percent for full pay periods after September 30, 1994, but before October 1, 1995;

(3) 11.50 percent for full pay periods after September 30, 1995, but before October 1, 1996;

(4) 11.66 percent for full pay periods after September 30, 1996, but before October 1, 1997;

(5) 11.82 percent for full pay periods after September 30, 1997, but before October 1, 1998;

(6) 12 percent for full pay periods after September 30, 1998, but before October 1, 1999;

(7) 12.16 percent for full pay periods after September 30, 1999, but before October 1, 2000; and

(8) 12.32 percent for full pay periods after September 30, 2000.

(b) The municipality has always picked up and shall continue to pick up the member contributions that are required by Subsection (a) of this section.

(c) Contributions picked up by the municipality shall be treated as employer contributions for the purpose of determining tax treatment of the amounts under the code. Those contributions are not

included in the gross income of the employee until the time they are distributed or made available to the employee.

Sec. 4.05. MUNICIPAL CONTRIBUTIONS. (a) Except as provided by Subsection (a-1) of this section, a municipality to which this Act applies shall pay into the fund an amount equal to double the sum total of all member contributions made in accordance with Section 4.04 of this Act.

(a-1) For a member who participates in the fund for the first time after September 30, 2003, and before October 1, 2005, a municipality is not required to pay an amount under Subsection (a) of this section into the fund for the member before the 61st day after the date the member becomes a participant in the fund.

(b) The payments into the fund by the municipality, both as to deductions and double-matching amounts, shall be made on the same day the contributions are deducted from the members' total salary.

(c) Any donations made to the fund and all amounts received from any source for the fund shall be deposited in the fund at the earliest opportunity.

(d) The municipality's double-matching amount under this section is in place of all other payments previously required by law to be made by the municipality.

(e) The municipal contribution and retirement annuities are a part of the compensation for services rendered to the municipality. This Act is of the essence of the contract of employment and appointment of the fire fighters and police officers of a municipality to which this Act applies.

Sec. 4.06. DEFICIENCY PAYMENT BY MUNICIPALITY. A municipality to which this Act applies shall pay the deficiency, if any, between the amount available to pay all retirement annuities and other benefits owed under this Act and the amount required by this Act to pay those benefits.

Sec. 4.07. REFUND OF CONTRIBUTIONS. (a) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1416, Sec. 17, eff. October 1, 2007.

(b) A member of the fund who terminates employment before the member's right to benefits under the fund has vested is entitled to a refund of the member's contributions that were picked up by the municipality. That refund shall be paid without interest. A refund under this section is not available to a member who terminates employment to receive a disability pension or to a survivor beneficiary under this Act. Except as provided by Section 4.08 of

this Act, a person's acceptance of a refund under this subsection precludes the person from any other right or benefit under this Act.

Sec. 4.08. PURCHASE OF SERVICE CREDIT PREVIOUSLY REFUNDED. (a) A member who received a refund under Section 4.07 of this Act of contributions made for a prior period of employment may reestablish service credit for that prior period of employment by paying to the fund a lump sum equal to the amount of the refund the member received under Section 4.07 of this Act, plus interest on the amount at the actuarial assumed rate of return, as established by the board, from the date the member received the refund to the date the member makes the lump-sum payment.

(b) A member must make the lump-sum payment under this section within a period of days after the date the member is reemployed that is equal to three times the number of days of the period beginning on the date the member terminated the member's prior employment and ending on the date the member is reemployed, provided that the period for making the lump-sum payment may not exceed five years.

(c) The member must file with the secretary of the board a written statement of intent to make the lump-sum payment under this section not later than the 90th day after the date the member is reemployed, except that a member who is reemployed before October 1, 2003, must file the statement on or before December 31, 2003.

ARTICLE 5. MEMBER BENEFITS

Sec. 5.01. RETIREMENT BENEFITS. (a) If a member of the fund has contributed a portion of that member's salary as provided by this Act and has contributed and served for 20 years or more in the fire or police department, the board shall, on the application of the member for a retirement annuity, authorize a retirement annuity to the member.

(b) The board shall compute the retirement annuity of a member who retires after September 30, 1991, but before October 1, 1995, on the basis of the average of the member's total salary for the highest three years of the last five years, computed from the date of retirement, of the member's pay at the rate of two percent for each of the first 20 years served, plus 3-1/2 percent for each of the next 10 years served, plus one percent for each of the next five years served, with fractional years prorated based on full months served as a contributing member, but the annuity may not exceed, as of the date of retirement, 80 percent of the average so determined.

(c) The board shall compute the retirement annuity of a member

who retires after September 30, 1995, but before October 1, 1997, on the basis of the average of the member's total salary for the highest three years of the last five years, computed from the date of retirement, of the member's pay at the rate of two percent for each of the first 20 years served, plus four percent for each of the next five years served, plus 3-1/2 percent for each of the next five years served, plus one percent for each of the next five years served, with fractional years prorated based on full months served as a contributing member. In making the computation for a year, the year is considered to begin on the first day a contribution is made. An annuity under this subsection may not exceed, as of the date of retirement, 82.5 percent of the average determined under this subsection.

(d) The board shall compute the retirement annuity of a member who retires after September 30, 1997, but before October 1, 1999, at the rate of two percent of the member's average total salary for each of the first 20 years of service, plus four percent of average total salary for each of the next 10 years of service, plus one percent of average total salary for each of the next five years of service, with fractional years of service prorated based on full months served as a contributing member. In making the computation for a year, the year is considered to begin on the first day a contribution is made. A retirement annuity under this subsection may not exceed, as of the date of retirement, 85 percent of the member's average total salary.

(e) The board shall compute the retirement annuity of a member who retires after September 30, 1999, but before October 1, 2001, at the rate of 2-1/8 percent of the member's average total salary for each of the first 20 years of service, plus four percent of the member's average total salary for each of the next 10 years of service, plus one percent of the member's average total salary for each of the next five years of service, with fractional years of service prorated based on full months served as a contributing member. In making the computation for a year, the year is considered to begin on the first day a contribution is made. A retirement annuity under this subsection may not exceed, as of the date of retirement, 87-1/2 percent of the member's average total salary.

(f) The board shall compute the retirement annuity of a member who retires after September 30, 2001, but before October 1, 2007, at the rate of 2-1/4 percent of the member's average total salary for each of the first 20 years of service, plus 4-1/2 percent of the

member's average total salary for each of the next seven years of service, plus three percent of the member's average total salary for each of the next three years of service, plus one-half percent of the member's average total salary for each of the next four years of service, with fractional years of service prorated based on full months served as a contributing member. In making the computation for a year, the year is considered to begin on the first day a contribution is made. A retirement annuity under this subsection may not exceed, as of the date of retirement, 87-1/2 percent of the member's average total salary.

(f-1) The board shall compute the retirement annuity of a member who retires after September 30, 2007, at the rate of 2-1/4 percent of the member's average total salary for each of the first 20 years of service, plus five percent of the member's average total salary for each of the next seven years of service, plus two percent of the member's average total salary for each of the next three years of service, plus one-half percent of the member's average total salary for each of the next three years of service, with fractional years of service prorated based on full months served as a contributing member. In making the computation for a year, the year is considered to begin on the first day a contribution is made. A retirement annuity under this subsection may not exceed, as of the date of retirement, 87-1/2 percent of the member's average total salary.

(g) A member may not receive an award from the fund for service retirement until the member has at least 20 years of service in the fire or police department and has also contributed the required amount of money for at least 20 years. In determining the number of years of service in a department, the member shall be given full credit for the period the member was an active member plus the time the member was actively engaged in service with any uniformed service in accordance with Section 4.03 of this Act and for absences taken under the Family and Medical Leave Act of 1993 (29 U.S.C. Section 2601 et seq.), in accordance with Section 4.02 of this Act. Disciplinary suspensions of 15 days or less may not be subtracted from a member's service credit under this Act if the member has paid into the fund, within 30 days after the later of the termination date of each suspension or the exhaustion of any appeal with respect to the suspension, a sum of money equal to the amount of money that would have been deducted from that person's salary during that period

of suspension if it had not been for that suspension. A municipality to which this Act applies shall double-match a payment made under this subsection. Members of the fund at the time of their retirement shall also receive service credit for all unused sick leave accumulated by them under Chapter 143, Local Government Code, but only to the extent the unused sick leave exceeds 90 days. Service credit for unused sick leave shall be prorated based on each full month of sick leave. A member's service credit under this section includes any service credit purchased in accordance with Subsections (k)-(m) of this section.

(h) All monthly pensions being paid by the fund to retirees who retired before October 1, 1989, are increased, effective with the first monthly payment due on or after October 1, 1999. The amount of the increase depends on the fiscal year ending September 30 in which the retiree retired and is a percentage of the pension payment that would have been payable on October 1, 1999, except for this increase. The amount of the percentage increase is:

Municipality Fiscal Year of Retirement	Percentage Increase
1988	1.0%
1987	2.0%
1986	3.0%
1985	4.0%
1984	5.0%
1983	6.0%
1982	7.0%
1981	8.0%
1980	9.0%
1979 or earlier	10.0%

(i) Beginning with the first monthly benefit payable by the fund after October 1, 2007:

(1) the monthly benefit payable by the fund to a retiree or a beneficiary of a deceased retiree or active member as a result of a service retirement, disability retirement, or death of an active member that occurred before October 1, 1989, increases by $200; and

(2) a monthly benefit that is divided and payable to more than one beneficiary in accordance with Section 6.02 of this Act increases by a total amount of $200.

(j) Beginning with the first monthly benefit payable by the

fund after October 1, 2007:

(1) a monthly benefit payable by the fund to a retiree or a beneficiary of a deceased retiree or active member that is less than $1,850 per month, after taking into account the increase provided for in Subsection (i) of this section, increases to $1,850 per month; and

(2) a monthly benefit that is divided and payable to more than one beneficiary in accordance with Section 6.02 of this Act increases to a total amount of $1,850.

(k) A member employed for a probationary period by a municipality to which this Act applies may elect to purchase one month of service credit for each full month in the member's probationary period, up to a maximum of 10 months. For each month of service credit the member elects to purchase, the member shall pay to the fund, on or before September 30, 2010, an amount equal to the sum of:

(1) the member buyback contribution amount for the member; and

(2) interest on the amount determined under Subdivision (1) of this subsection at the rate of eight percent per annum, compounded annually, calculated for the period beginning on the first day after the class graduation date for the member's class and ending on the earlier of December 31, 2009, or the date the fund receives the payment required under this subsection.

(l) A member may not elect to purchase a partial month of service credit under Subsection (k) of this section. A member is not required to elect to purchase more than one month of service credit under Subsection (k) of this section. A member may make the payment required under Subsection (k) of this section only with qualified funds. A member must make an election under Subsection (k) of this section on or before December 31, 2009, in accordance with policies and procedures adopted by the board.

(m) An election under Subsection (k) of this section is void unless the member makes the full required payment before the earlier of the date of the member's retirement or the date of the member's death. If a member makes only partial payment before the earlier of the date of the member's retirement or the date of the member's death, the fund shall refund all payments received, without interest, to the member, if the member is alive, or to the member's estate, if the member is dead. The fund shall refund payment under this subsection not later than the 60th day after the date of the member's

retirement or the date of the member's death, as applicable.

Sec. 5.015. BACKWARD DEFERRED RETIREMENT OPTION PLAN (BACK DROP). (a) At the time a member applies for retirement benefits under Section 5.01 of this Act, the member may elect a Backward Deferred Retirement Option Plan (Back DROP) with a lump-sum payment and a reduced annuity benefit as provided by this section.

(b) The Back DROP election:

(1) results in a lump-sum payment for a number of full months of service elected by the member that does not exceed the lesser of the number of months of service credit the member has in excess of 20 years or 60 months;

(2) is available only to a member who takes a service retirement; and

(3) must be made at the time of application for retirement.

(c) To be eligible to make a Back DROP election under this section, a member of the fund must have at least 20 years and 1 month of service in the fire or police department.

(d) The amount of a lump-sum payment to which a member making a Back DROP election is entitled shall be computed in the manner provided by this subsection and Subsection (d-1) of this section. The member's retirement annuity shall be computed in the manner provided by Section 5.01 of this Act, except that the amount of service credit and average total salary used in making that computation shall be determined in accordance with this subsection. For purposes of this subsection, the member's average total salary shall be computed based on the member's Back DROP retirement date, which is the member's actual retirement date less the amount of time the member elects under Subsection (b)(1) of this section. For purposes of this subsection, the member's service credit shall be the member's service credit determined in accordance with Section 5.01(g) of this Act less the amount of time for:

(1) any service credit in excess of 34 years of service, other than service credit for sick leave unused on the date of actual retirement;

(2) any service credit given for sick leave unused on the date of actual retirement; and

(3) any service credit in excess of 20 years but not in excess of the amount permitted under Subsection (b)(1) of this section that the member elects for computing the amount of the lump-sum payment.

(d-1) The member's retirement annuity as computed under Subsection (d) of this section shall be divided by 12 to compute the member's monthly pension to be used to compute the lump-sum payment. The member's monthly pension multiplied by the number of full months elected by the member under Subsection (b)(1) of this section is the amount of the lump-sum payment to which the member is entitled.

(e) For purposes of computing the monthly pension of a member making a Back DROP election, the member's retirement annuity shall be computed in the manner provided by Section 5.01 of this Act, except that:

(1) the amount of service credit used in making that computation shall be the member's service credit determined in accordance with Section 5.01(g) of this Act less:

(A) the amount of time the member elects under Subsection (b)(1) of this section; and

(B) any service credit in excess of 34 years of service excluding any service credit for sick leave unused on the date of actual retirement; and

(2) the member's average total salary shall be computed as if the member's retirement date were the member's actual retirement date less the amount of time the member elects under Subsection (b)(1) of this section.

(e-1) The annuity computed under Subsection (e) of this section may not exceed the applicable limitations provided by Section 5.01 of this Act. The member's retirement annuity shall be divided by 12 to compute the member's monthly pension.

(f) A member may defer receiving the lump-sum payment under this section for a period of not longer than 12 months after the member's retirement date. Interest may not be paid on the deferred amount at the time of distribution.

(g) Repealed by Acts 1997, 75th Leg., ch. 35, Sec. 37, eff. Oct. 1, 1997.

Sec. 5.02. RETIREMENT BENEFITS AFTER CESSATION OF MEMBERSHIP. (a) A person who has qualified for a retirement annuity under this Act but who has subsequently ceased to be a member of the fund or a properly enrolled member of the fire or police department, by whatever means or for whatever reason, is entitled to a retirement annuity from the fund that accrued to that person before the time that person ceased to be a member of the fund or a properly enrolled member of the fire or police department if the person or the person's

beneficiary, in the event of the person's death, files an application for the retirement annuity with the board.

(b) A retirement annuity under Subsection (a) of this section begins the first full calendar month after the month in which the application is filed with the board.

(c) The amount of the retirement annuity under Subsection (a) of this section is the lesser of:

(1) the amount established as of the date the person ceased to be a member of the fund or a properly enrolled member of the fire or police department; or

(2) the amount established as of the date the person or the person's beneficiary filed an application under this section.

Sec. 5.03. ELIGIBILITY FOR DISABILITY RETIREMENT. (a) An active member of the fund who is not eligible to receive a catastrophic injury disability annuity under Subsection (a-1) of this section is eligible to retire and receive a regular disability retirement annuity if the member:

(1) makes a written application for regular disability retirement with the board;

(2) is permanently disabled through injury or disease so as to be unable to perform the duties of any available position in the department and has been off active duty for a continuous period of not less than 30 days before the date of the application for disability retirement;

(3) has had all member contributions required by this Act made on the member's behalf;

(4) is not on indefinite suspension as described in Subsection (d) of this section; and

(5) has authorized the release to the board of all medical records dated on or after the date of initial application for employment with the department.

(a-1) An active member of the fund is eligible to retire and receive a catastrophic injury disability retirement annuity if the member:

(1) makes a written application for catastrophic injury disability retirement with the board;

(2) is permanently so disabled as a result of a catastrophic injury as to:

(A) be unable to secure any type of third-party employment, or engage in any self-employment, other than sporadic

third-party or self-employment; and

(B) have, as a result of the lack of third-party employment or self-employment, an annual income less than the poverty level for one person in the 48 contiguous states of the United States as provided under the poverty guidelines published from time to time by the United States Department of Health and Human Services, or similar guidelines selected by the board;

(3) has had all member contributions required by this Act made on the member's behalf;

(4) is not on indefinite suspension as described in Subsection (d) of this section; and

(5) has authorized the release to the board of all medical records dated on or after the date of initial application for employment with the department.

(a-2) The following diseases, disorders, or injuries are not catastrophic injuries:

(1) heart disease or lung disease contracted as a result of repeated exposure to occupational environmental conditions over a period of months or years;

(2) an anxiety disorder, including post-traumatic stress disorder; or

(3) a soft-tissue back, neck, or spine injury, including a sprain, strain, subluxation, or repetitive stress injury, that does not result in paralysis, as determined by a physician authorized or appointed by the board.

(b) A member of the fund who has a disability resulting from injury or disease incurred before the member became a fire fighter or police officer is not entitled to a disability retirement annuity based on that disability.

(c) Except as provided by Subsection (d) of this section, a member of the fund who is on suspension and who becomes disabled as a result of an injury sustained or disease contracted while the member is on suspension is eligible for a disability retirement annuity under Subsection (a) or (a-1) of this section, as applicable, if the suspended member makes up each deducted contribution lost by reason of the suspension not later than the 30th day after the later of the termination date of the suspension or the exhaustion of any appeal with respect to the suspension. A municipality to which this Act applies shall double-match all contributions made by a member under this subsection.

(d) A member of the fund who is on indefinite suspension is not eligible for a disability retirement annuity until the final determination of the suspension and all appeals of that determination are exhausted. A member of the fund who is on indefinite suspension is not entitled to a disability retirement annuity if the member is finally discharged. A member of the fund who is on indefinite suspension but who is restored to duty or who is given a suspension for a specific period is eligible for a disability retirement annuity as provided by Subsection (a) of this section.

(e) A member of the fund who applies for disability retirement under this section is subject to medical examination as determined by the board.

(f) This section does not affect any rights under Section 5.02 of this Act.

(g) A disability retiree who becomes disabled before October 1, 2007, and who is otherwise qualified to receive a catastrophic injury disability retirement annuity under Subsection (a-1) of this section is eligible to receive an annuity under that subsection, subject to Section 5.04(a-2) of this Act.

Sec. 5.04. DISABILITY RETIREMENT BENEFITS. (a) A member who is eligible to retire and receive a disability retirement annuity under Section 5.03(a) of this Act is entitled to receive an annuity from the fund equal to:

(1) 50 percent of the member's average total salary, if the member has served three years or more before the date of retirement;

(2) 50 percent of the member's average monthly salary as of the date of retirement multiplied by 12, if the member has served at least two months and less than three years before the date of retirement; or

(3) 50 percent of the member's average daily salary as of the date of retirement multiplied by 360, if the member has served less than two months before the date of retirement.

(a-1) Subject to Subsection (a-2) of this section a member who is eligible to retire and receive a catastrophic injury disability retirement annuity under Section 5.03(a-1) of this Act is entitled to receive an annuity from the fund equal to:

(1) 87.5 percent of the member's average total salary, if the member has served three years or more before the date of retirement;

(2) 87.5 percent of the member's average monthly salary as

of the date of retirement multiplied by 12, if the member has served at least two months and less than three years before the date of retirement; or

(3) 87.5 percent of the member's average daily salary as of the date of retirement multiplied by 360, if the member has served less than two months before the date of retirement.

(a-2) An annuity awarded by the board under Subsection (a-1) of this section to a member who was previously awarded an annuity under Subsection (a) of this section shall be increased to equal the amount the annuity awarded under Subsection (a) of this section would have been if the annuity had been awarded under Subsection (a-1) of this section, taking into account the cost of living adjustment increases provided for in Section 5.09 of this Act. This subsection does not entitle the member to any additional payment for the period before the effective date of the award under Subsection (a-1) of this section.

(b) In making computations under this section, all fractional years must be prorated based on full months served in the department as a contributing member of the fund.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1416, Sec. 17, eff. October 1, 2007.

Sec. 5.05. MEDICAL REEXAMINATION AND REDUCTION OF DISABILITY RETIREMENT BENEFITS. (a) The board may cause a disability retiree to undergo a medical examination or examinations by any reputable physician or physicians selected by the board.

(a-1) A disability retiree who is awarded a catastrophic injury disability annuity under Section 5.03(a-1) of this Act shall undergo a medical examination by any reputable physician or physicians selected by the board:

(1) not later than 60 months after the date of the award of the annuity by the board; and

(2) thereafter, not later than 60 months following the last required medical examination of the disability retiree under this subsection.

(a-2) The board may require one or more medical examinations under Subsection (a) of this section in addition to those required under Subsection (a-1) of this section.

(a-3) Subject to Subsection (c) of this section, based on an examination under Subsections (a), (a-1), or (a-2) of this section, the board shall determine whether the disability retirement annuity

shall be continued, decreased, restored to the original amount if it had been decreased, or discontinued.

(b) For those retired because of disability before August 30, 1971, the board may change the disability retirement annuity provided by this Act, in accordance with any change in the degree of disability, except that the percentage used to compute the annuity may not, except in the case of discontinuance, be reduced to less than 2.25 percent of the base pay of a private each month, for each year that the retiree has served and contributed a portion of salary as provided by this Act, based on the greater of:

(1) the rate of pay at the time of the original granting of the disability retirement annuity; or

(2) a minimum base pay of $200 each month.

(c) For those retired because of disability on or after August 30, 1971, the disability retirement annuity may not be reduced to an amount that is less than the product of:

(1) 2.25 percent multiplied by the number of years that the retiree served in the department and contributed a portion of salary as a member of the fund multiplied by the retiree's average total salary, if the retiree served three years or more before the date of retirement;

(2) 2.25 percent multiplied by the number of years that the retiree served in the department and contributed a portion of salary as a member of the fund multiplied by the retiree's average monthly salary as of the date of retirement multiplied by 12, if the retiree served at least two months and less than three years before the date of retirement; or

(3) 2.25 percent multiplied by the number of years that the retiree served in the department and contributed a portion of salary as a member of the fund multiplied by the retiree's average daily salary as of the date of retirement multiplied by 360, if the member has served less than two months before the date of retirement.

(c-1) In making the computation under Subsection (c) of this section, all fractional years shall be prorated based on full months served in the department as a contributing member of the fund before the date of retirement.

(d) If a disability retiree, after notice, fails to undergo a medical examination as provided by this section, the board may reduce or entirely discontinue the retiree's disability annuity payments.

Sec. 5.06. REMOVAL OF DISABILITY AND WAIVER ON REINSTATEMENT.

(a) If a disability retiree applies for reinstatement to the department from which that person retired, the disability retiree, in addition to complying with any applicable civil service laws, shall file a written application with the board for a discontinuance of that person's disability retirement annuity, subject to medical examination, indicating that the person has recovered from the disability for which that person has been receiving disability retirement annuity payments and certifying to the board that the chief of the department from which that person was retired approves that person's reinstatement.

(b) The applicant must execute a waiver on a form prescribed by the board in which the applicant waives a second disability retirement annuity resulting from the same disability that was the basis of the first disability at a higher rate than the applicant was receiving at the time of the reinstatement for a period of three years after reinstatement. After three years of reinstated service, any subsequent disability retirement annuity is computed as any other disability retirement annuity.

(c) If the applicant is required to undergo retraining and is compensated during a period before being officially reinstated, the applicant's monthly disability retirement annuity shall be reduced by the amount of any monthly departmental payroll benefit, to the extent that the latter is greater.

(d) The board may approve the discontinuance of a disability retirement annuity as provided by this Act.

Sec. 5.07. OUTSIDE INCOME PENSION REDUCTION. (a) The board shall require each disability retiree retiring after August 29, 1979, to provide the board annually not later than May 1 of each year with a true and complete copy of the retiree's income tax return for the previous year, except for a retiree who is 65 years of age or older as of December 31 of the previous year.

(b) If the retiree received income from other employment, including self-employment, during the preceding year, the board may reduce the retiree's disability retirement annuity by the amount of $1 for each month for each $2 of income earned by the retiree from the other employment during each month of the previous year, except that the disability retirement annuity may not be decreased below the amount determined under Section 5.05(c) of this Act.

Sec. 5.08. REASONABLE ACCOMMODATION. (a) A disability retirement annuity may not be granted or continued if the chief of

the member's department will provide the member employment within the department commensurate with that person's physical and mental capabilities.

(b) A determination under this section is solely within the discretion of the department chief and must be reasonably exercised.

Sec. 5.09. COST-OF-LIVING INCREASES. (a) At or before its regular meeting in the month of March, the board annually shall review the Consumer's Price Index for All Urban Consumers (CPI-U), U.S. City Average or the nearest equivalent published by the United States Bureau of Labor Statistics for the preceding calendar year. If that index shows an increase during the preceding calendar year in the cost of living as compared with that index at the close of the previous year, the board shall order an increase of all service, disability, and death benefit retirement annuities by a percentage that varies by the date of the member's service or disability retirement, or, in the case of a member who died before retirement, the date on which the member died. If the member's service retirement, disability retirement, or death before retirement occurred before August 30, 1971, the annuity shall be increased by a percentage equal to the percentage increase in the cost of living index. If the member's service retirement, disability retirement, or death before retirement occurred on or after August 30, 1971, but before October 1, 1999, the annuity shall be increased as follows: if the percentage increase in the cost of living index is eight percent or less, the annuity shall be increased by a percentage equal to the percentage increase, and if the percentage increase in the cost of living index is more than eight percent, the annuity shall be increased by eight percent plus a percentage equal to 75 percent of the percentage increase that is more than eight percent. If the member's service retirement, disability retirement, or death before retirement occurred on or after October 1, 1999, the annuity shall be increased by a percentage equal to 75 percent of the percentage increase in the cost of living index. A percentage increase in annuities shall be rounded to the nearest one-tenth percentage point for a cost of living increase.

(a-1) The cost of living increases described by this section do not apply to an annuity payable under Section 6.02(g-3) of this Act until the annuity becomes effective.

(b) The annuities to which this section applies shall be computed as of the month of January before that March board meeting

and shall continue in effect for at least one full year until there has been an additional increase to that cost-of-living index and the board enters another order as provided by this section.

(c) The cost-of-living increase paid to any retiree or beneficiary during the first full year after the effective date of the service retirement, disability retirement, or death shall be prorated on the basis of full months from the date of the member's service retirement, disability retirement, or death.

Sec. 5.10. COORDINATION WITH FEDERAL LAW. (a) A member or beneficiary of a member of the fund may not accrue a service retirement annuity, disability retirement annuity, death benefit, whether death occurs in the line of duty or otherwise, or any other benefit under this Act in excess of the benefit limits applicable to the fund under Section 415 of the code. The board shall reduce the amount of any benefit that exceeds those limits by the amount of the excess. If the total benefits under this fund and the benefits and contributions to which any member is entitled under any other qualified defined benefit plan maintained by the municipality that employs the member would otherwise exceed the applicable limits under Section 415 of the code, the benefits the member would otherwise receive from the fund shall be reduced to the extent necessary to enable the benefits to comply with Section 415 of the code.

(b) Any member or beneficiary who is entitled to receive any distribution that is an eligible rollover distribution as defined by Section 402(c)(4) of the code is entitled to have that distribution transferred directly to another eligible retirement plan of the member's or beneficiary's choice on providing direction to the fund regarding that transfer in accordance with procedures established by the board.

(c) The total salary taken into account for any purpose for any member of the fund may not exceed $200,000 per year for an eligible participant or $150,000 per year for an ineligible participant. These dollar limits shall be periodically adjusted in accordance with guidelines provided by the United States secretary of the treasury. For purposes of this subsection, an eligible participant is any person who first became a member before 1996, and an ineligible participant is any member who is not an eligible participant.

(d) Accrued benefits under this Act become 100 percent vested for a member on:

(1) the date the member has completed 20 years of service;

(2) the earlier termination or partial termination of the pension plan created by this Act, if it affects the member; or

(3) the complete discontinuance of contributions by the municipality to the fund.

(e) Amounts representing forfeited nonvested benefits of terminated members may not be used to increase benefits payable from the fund but may be used to reduce contributions for future plan years.

(f) Distribution of benefits must begin not later than April 1 of the year following the calendar year during which the member becomes 70-1/2 years of age and must otherwise conform to Section 401(a)(9) of the code.

(g) If the amount of any benefit is to be determined on the basis of actuarial assumptions that are not otherwise specifically set forth for that purpose in this Act, the actuarial assumptions to be used are those earnings and mortality assumptions being used on the date of the determination by the fund's actuary and approved by the board. The actuarial assumptions being used at any particular time shall be attached as an addendum to a copy of this Act and treated for all purposes as a part of this Act. The actuarial assumptions may be changed by the fund's actuary at any time if approved by the board, but a change in actuarial assumptions may not result in any decrease in benefits accrued as of the effective date of the change.

(h) This section applies to any benefit regardless of when accrued.

(i) The board may adopt rules to administer this section. A rule adopted by the board under this subsection is final and binding.

(j) To the extent permitted by law, the board may adjust the benefits of retired members and beneficiaries by increasing any retirement benefit that was reduced because of Section 415 of the code. If Section 415 of the code is amended to permit the payment of amounts previously precluded under Section 415 of the code, the board may adjust the benefits of retired members and beneficiaries, including the restoration of benefits previously denied. Benefits paid under this subsection are not considered as extra compensation earned after retirement but as the delayed payment of benefits earned before retirement.

(k) The board by rule shall implement this Act in a manner that preserves the tax qualification of the fund under the code and may

revise any provision or program to the extent necessary to retain tax qualification.

(l) In this section, "qualified plan" has the meaning assigned by Section 8.02 of this Act.

Sec. 5.11. 13TH CHECK FOR RETIREES. (a) In any fiscal year ending after 1996 for which the board determines that the average annual investment yield on the market value of fund investments for the preceding five fiscal years exceeded the annual investment yield projected by the actuary for that preceding five-fiscal-year period by at least 100 basis points, the board may authorize the disbursement of a 13th pension check.

(b) The 13th pension check is paid to each retiree who is entitled to receive an annuity in the last month of the fiscal year preceding the fiscal year in which the check is disbursed and is in an amount equal to the amount of the annuity payment made in the last month of the preceding fiscal year, except the amount of any such check shall be prorated for any retiree who has been receiving an annuity for less than one year so that the amount of the check is one-twelfth of the check that would have been paid to the retiree receiving an annuity for a full year times the number of full months an annuity has been paid.

(c) Authorization of a 13th check for any year is subject to the discretion of the board. Authorization for one year does not obligate the board to authorize a 13th check for any other year. The 13th check shall be paid as the board directs.

(d) In this section, "annual investment yield" means the yield on the fund's investment portfolio for a particular year, as a percentage of the portfolio, after reduction for costs of investing the portfolio, but without reduction for the fund's operating expenses.

Sec. 5.12. 14TH CHECK FOR RETIREES. (a) In this section, "annual investment yield" has the meaning assigned by Section 5.11(d) of this Act.

(b) In a fiscal year ending after September 1, 2000, for which the board determines that the average annual investment yield on the market value of fund investments for the preceding five fiscal years exceeded the annual investment yield projected by the actuary for that five-fiscal-year period by at least 300 basis points, the board may authorize the disbursement of a 14th pension check.

(c) The 14th pension check is paid to each retiree who is

entitled to receive an annuity in the last month of the fiscal year preceding the fiscal year in which the check is disbursed. Except as provided by Subsection (d) of this section, the check is in an amount equal to the amount of the annuity payment made in the last month of the preceding fiscal year.

(d) For a retiree who has received an annuity for less than one year, the amount of the 14th pension check is prorated so that the amount of the check is one-twelfth of the check that would have been paid to a retiree receiving an annuity for a full year times the number of full months an annuity has been paid.

(e) Authorization of a 14th check for any year is subject to the discretion of the board. Authorization for one year does not obligate the board to authorize a 14th check for any other year. The 14th check shall be paid as the board directs.

ARTICLE 6. BENEFICIARY'S BENEFITS

Sec. 6.01. MEMBER'S BENEFICIARY AND DEPENDENT CHILD'S RIGHTS. (a) A member of the fund has, in addition to all rights accruing from the person's membership, the same right to receive benefits as a beneficiary that a nonmember who is a beneficiary has in similar circumstances if the member's spouse also is a member of the fund.

(b) A dependent child is entitled to receive benefits based on the service of any parent who is a member of the fund.

Sec. 6.02. DEATH BENEFIT ANNUITY FOR SURVIVING SPOUSES AND CHILDREN. (a) Subject to Section 6.03 of this Act and the provisions of this section, if a member or retiree receiving a disability pension under Section 5.03(a) of this Act dies leaving a surviving spouse or at least one dependent child, the surviving spouse and the children are entitled to receive from the fund an aggregate death benefit annuity, computed and payable from the date of the member's death. The surviving spouse may elect the annuity in an amount that is equal to either:

(1) 50 percent of the member's average total salary; or

(2) the same percentage of the member's average total salary that the member would have been entitled to receive as a retirement annuity if the member could have retired on the date of death.

(b) The amount of a death benefit annuity computed under Subsection (a) of this section may not exceed the service retirement annuity to which a member with the same average total salary and with 27 years of service credit would be entitled.

(c) Subject to the provisions of this section, if a retiree other than a retiree receiving a disability pension under Section 5.03(a) of this Act dies leaving a surviving spouse or at least one dependent child, the surviving spouse and dependent children are entitled to receive from the fund an aggregate death benefit annuity, computed and payable from the date of the member's death, in an amount that is equal to the lesser of:

(1) the retirement annuity to which a member with the same average total salary as the deceased retiree and 27 years of service credit would be entitled if the member retired on the date of the deceased retiree's death; or

(2) the retirement annuity the retiree was receiving at the time of the retiree's death.

(d) Subject to Subsection (d-2) of this section, if, at the time a death benefit annuity becomes payable under Subsection (a) or (c) of this section, the deceased member or retiree leaves a surviving spouse and at least one dependent child, the board shall award:

(1) 75 percent of the annuity to the surviving spouse; and

(2) 25 percent of the annuity:

(A) to the dependent child, if there is only one; or

(B) if there is more than one dependent child, in equal shares to each child.

(d-1) The allocation of an annuity under Subsection (d) of this section is effective as to all annuities payable by the fund as of October 1, 2009, that are payable in part to a surviving spouse and in part to one or more surviving children. This subsection applies only to benefits payable by the fund after September 30, 2009, and does not affect benefits paid or payable by the fund before October 1, 2009.

(d-2) If, at the time a death benefit annuity becomes payable under Subsection (a) or (c) of this section, a deceased member or retiree leaves a surviving spouse who is not entitled to an annuity on the date of death under Subsection (g-1) of this section and one or more dependent children, the dependent child or children shall be awarded 100 percent of the death benefit annuity until the annuity to the surviving spouse becomes effective under Subsection (g-3) of this section.

(e) If, at the time a death benefit annuity under Subsection (a) or (c) of this section becomes payable, the deceased leaves a

surviving spouse and no dependent child, the board shall award the annuity to the surviving spouse.

(f) If, at the time a death benefit annuity under Subsection (a) or (c) of this section becomes payable, the deceased leaves no surviving spouse and at least one dependent child, the board shall award the annuity:

(1) to the dependent child, if there is only one; or

(2) if there is more than one child, in equal shares to each child.

(g) A child who is born after the date of retirement of the member is not entitled to a death benefit annuity under this Act unless the retiree was married to the other parent of the child on the date of retirement. A surviving spouse of a retiree whose status as a surviving spouse resulted from a marriage after the date of the retirement of the retiree is entitled to receive only the benefits, if any, provided under Subsection (g-1) of this section or Section 6.08 of this Act.

(g-1) Subject to Subsection (g-3) of this section, a surviving spouse of a retiree whose status as a surviving spouse resulted from a marriage after the date of the retirement of the retiree is entitled to receive the entire death benefit of a surviving spouse in this section if the surviving spouse was married to the retiree for a period of at least the five consecutive years preceding the date of the retiree's death. A surviving spouse of a retiree whose status as a surviving spouse resulted from a marriage after the date of the retirement of the retiree and was not married to the retiree for a period of the five consecutive years preceding the date of the retiree's death is entitled to receive only the benefits, if any, provided under Section 6.08 of this Act. The benefit provided by this subsection applies only with respect to a retiree death that occurs on or after October 1, 2007.

(g-2) The surviving spouse of a retiree who made an election under Subsection (m) of this section before October 1, 2007, and who does not cancel that election in accordance with Subsection (m) of this section is not entitled to receive the death benefit annuity provided for under Subsection (g-1) of this section.

(g-3) The death benefit to which a surviving spouse is entitled under Subsection (g-1) of this section as a result of a retiree's death that occurs on or after October 1, 2009, is payable by the fund on the date of the retiree's death if the surviving spouse is 55

years of age or older on the date of the retiree's death. If the surviving spouse is not 55 years of age or older on the date of the retiree's death, the annuity shall be payable by the fund on the date the surviving spouse reaches age 55. A surviving spouse who is not 55 years of age or older on the date of the retiree's death is not entitled to benefits from the fund during the period beginning on the date of the retiree's death and ending on the date the surviving spouse reaches age 55.

(h) If a member or retiree dies leaving a surviving spouse and at least one dependent child, the death benefit annuity payable to the surviving spouse shall be increased as of the day no child is entitled to receive benefits to the amount the spouse would have received had there been no dependent child.

(i) If a member or retiree dies leaving a surviving spouse and at least one dependent child, the death benefit annuity payable to the dependent children shall be increased as of the day the surviving spouse dies to the amount the children would have received had there been no surviving spouse.

(j) A dependent child as defined by Section 1.02(7)(B) of this Act has the same rights as a dependent child as defined by Section 1.02(7)(A) of this Act, except that any death benefit annuity paid under this subsection to a dependent child as defined by Section 1.02(7)(B) of this Act may, at the discretion of the board, be reduced to the extent of any state pension or aid, including Medicaid, or any state-funded assistance received by the child, regardless of whether the funds were made available to the state by the federal government. In no other instance under this Act is a child entitled to any benefit after becoming 18 years of age.

(k) The board shall increase a death benefit annuity payable on October 1, 1999, to a dependent child or children who do not have a living parent on that date to the entire amount of the death benefit annuity that would have been awarded had the retiree or member died leaving no surviving spouse if a surviving spouse of the member or retiree is not entitled to receive benefits from the fund on October 1, 1999.

(l) A former spouse of a deceased member or retiree who is not the spouse of the member or retiree on the date of death of the member or retiree is not entitled to a benefit under this section.

(m) Subject to Subsections (n) and (o) of this section, a service retiree who marries after the date of retirement may elect to

receive a reduced annuity during the retiree's lifetime and provide for a death benefit annuity to the retiree's surviving spouse. The amount of the reduced annuity and spousal death benefit shall be determined by the fund's actuary and shall be actuarially equivalent to the annuity the retiree was receiving immediately before the election under this subsection. An election made under this subsection may be canceled by the retiree before the retiree's death. After the election is canceled, the retiree shall be entitled to receive the same annuity to which the retiree would have been entitled if the election had not been made. A retiree who cancels an election under this subsection is not entitled to any additional benefits for the period of time before the cancellation. The board shall adopt policies and procedures governing elections and cancellation of elections under this subsection. An election or cancellation of an election made under this subsection must be made in accordance with the board's policies and procedures.

(n) A retiree may not make an election under Subsection (m) of this section at a time in which there are one or more dependent children of the retiree who would be entitled to a death benefit under this section on the death of the retiree.

(o) A retiree may not make an election under Subsection (m) of this section after September 30, 2007. A cancellation of an election by a retiree under Subsection (m) of this section must be made on or before December 31, 2007.

Sec. 6.03. DEATH BENEFIT ANNUITY FOR SPOUSE OF MEMBER KILLED IN LINE OF DUTY. (a) The death benefit annuity of a surviving spouse of a member of the fund who is killed in the line of duty is governed by this section.

(b) The board shall consider the finding of a municipality to which this Act applies that a member was killed in the line of duty as a guideline for its determination in applying this section. On an application for survivor's benefits by a surviving spouse or dependent child, the fund shall pay the normal benefits payable under Section 6.02 of this Act. When a benefit is payable under this section, the death benefit annuity shall be recomputed, applying Subsection (c) of this section, and any deficiency payment shall be paid to the eligible beneficiaries.

(c) Notwithstanding the formulas for computing the total amounts of annuities otherwise provided by this Act, if a member is killed in the line of duty, the member's surviving spouse and dependent

children are entitled to a death benefit annuity equal to the total salary of the member at the time of death. Rules provided by this section relating to qualification and disqualification for and apportionment of benefits apply to a death benefit annuity computed under this subsection. A death benefit annuity computed under this subsection is divided in the manner described by Section 6.02 of this Act and is subject to the same cost-of-living adjustments that apply to pensions for service retirement.

Sec. 6.04. REMARRIAGE; BENEFITS AFTER TERMINATION OF MARRIAGE. (a) The right of a surviving spouse or dependent child to annuity payments under this Act is not affected by the surviving spouse's remarriage or dependent child's marriage under either statutory or common law if the marriage or remarriage takes place on or after October 1, 1995.

(b) If after October 1, 1995, there is a termination of the remarriage of a surviving spouse or of the marriage of a dependent child, that person is entitled, on application, to 100 percent of the annuity that was in effect on the date of termination of benefits.

(c) A surviving spouse or dependent child who is unmarried but receiving reduced benefits because of a prior marriage that caused the benefits to be terminated is entitled to 100 percent of the annuity that was in effect on the original date of termination of benefits.

(d) The benefit provided under Subsections (b) and (c) of this section shall be provided prospectively beginning October 1, 1995, and the surviving spouse or dependent child is not entitled to receive any benefits or increases in benefits relating to any period before October 1, 1995.

Sec. 6.05. AFFIDAVIT OF MARITAL STATUS. (a) A surviving spouse, a dependent child, or the guardian of a surviving spouse or dependent child may be required by the board to file an affidavit concerning the person's marital status or the marital status of the person's wards in any case in which marriage could affect the benefits of the surviving spouse or dependent child.

(b) If the surviving spouse, dependent child, or guardian fails or refuses to file an affidavit required under Subsection (a) of this section or if an incomplete, incorrect, or false affidavit is filed, the board may suspend annuity payments to that person indefinitely until the person complies with the requests and orders of the board.

Sec. 6.06. COMMON-LAW MARRIAGES. Common-law marriages are not

recognized under this Act and benefits may not be conferred on common-law spouses as beneficiaries unless a declaration of informal marriage was made and recorded under Sections 2.402 and 2.404, Family Code, and their subsequent amendments, or any successor statutes, before the member's death.

Sec. 6.07. SURVIVING SPOUSE'S RIGHT TO SINGLE ENTITLEMENT. A surviving spouse, whether or not a member of the fund, is not entitled to more than one death benefit annuity from the fund. A surviving spouse who has been married to more than one deceased member or retiree is entitled to receive a death benefit annuity with respect to the deceased member or retiree that will provide the highest benefit.

Sec. 6.08. LUMP-SUM DEATH BENEFIT. (a) Except as provided by Subsection (b) of this section, a surviving spouse of a retiree whose status as such resulted from any marriage after the date of the retirement of the retiree and who has been married to the retiree for a period of less than the five consecutive years preceding the date of the retiree's death, is entitled to a lump-sum death benefit because of the retiree's death in the amount of $15,000.

(b) A surviving spouse is not entitled to a lump-sum death benefit under this section if a child is entitled to receive death benefits under this Act as a result of the retiree's death.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1416, Sec. 17, eff. October 1, 2007.

Sec. 6.09. DEATH BENEFIT ANNUITIES TO DEPENDENT PARENTS. (a) If a contributing member in good standing of the fire or police department or a retiree dies before or after retirement and leaves no surviving spouse or child but leaves surviving a father and mother wholly dependent on that person for support, the dependent father and mother are entitled to receive one-third of the average total salary of the deceased member based on the same number of years of the member's pay as is currently provided for computations of retirement annuities under Section 5.01 of this Act, the annuity to be equally divided between the father and mother as long as they are wholly dependent. If there is only one dependent, either father or mother, the board shall grant the surviving dependent an annuity not to exceed one-fourth that average total salary as computed under this subsection.

(b) An application for benefits under Subsection (a) of this section must be accompanied by a copy of the deceased member's or

retiree's tax return filed for the last year ending before the member's or retiree's death or an explanation satisfactory to the board of why the tax return cannot be provided. The board may, on its own initiative, make a thorough investigation, determine the facts as to the dependency with respect to an application for benefits made under Subsection (a) of this section, and at any time, on the request of any beneficiary or any contributor to the fund, reopen any award made to any member or dependent of any member who is receiving annuity payments under this section and discontinue those payments as to all or any of them. The findings of the board under this section and all annuities granted under this section are final on all parties unless set aside or revoked by a court of competent jurisdiction.

Sec. 6.10. SUSPENSION RIGHTS. If a member dies who is under suspension at the time of death, including an indefinite suspension that has not become final, the member's beneficiaries have the same rights as the beneficiaries of any other member under this Act.

Sec. 6.11. DEATH BENEFIT FOR ACTIVE MEMBER'S ESTATE. If an active member dies and does not leave a beneficiary, the estate of the deceased member is entitled to a death benefit payment from the fund in an amount equal to the greater of:

(1) 10 times the amount of an annuity computed in accordance with Section 5.01(f-1) of this Act using the deceased member's service credit and average total salary as of the date of death; or

(2) the refund of the member's contributions that were picked up by the municipality.

Sec. 6.115. DEATH BENEFIT FOR RETIREE'S ESTATE. If a retiree dies and does not leave a beneficiary, the estate of the retiree is entitled to a death benefit payment from the fund in an amount equal to 10 times the amount of the annuity awarded by the board effective on the retiree's date of retirement, less any retirement or disability annuity and any lump sum under Section 5.015 of this Act paid to the retiree.

Sec. 6.12. 13TH AND 14TH CHECKS FOR BENEFICIARIES. (a) For any year in which the board authorizes disbursement of a 13th or 14th pension check to retirees under Section 5.11 or 5.12 of this Act, the board shall also authorize disbursement of a 13th or 14th check to each beneficiary entitled to receive an annuity in the last month of the fiscal year preceding the fiscal year in which the check is

disbursed.

(b) The amount of the 13th or 14th check is equal to the amount of the annuity payment made in the last month of the preceding fiscal year, except the amount of the check shall be prorated for any beneficiary who has been receiving an annuity for less than one year so that the amount of the check is one-twelfth of the check that would have been paid to the beneficiary receiving an annuity for a full year times the number of full months an annuity has been paid.

Sec. 6.13. GUARDIANSHIP. Any benefit payable under this article to a dependent child as defined by Section 1.02(7)(B) of this Act may be paid only to a guardian who is appointed in accordance with Title 3, Estates Code. Any benefit payable under this article to a dependent child as defined by Section 1.02(7)(A) of this Act may, at the board's discretion, be:

(1) paid to a guardian appointed in accordance with Title 3, Estates Code; or

(2) accrued by the fund and paid directly to the dependent child on the child's 18th birthday.

Sec. 6.13. GUARDIANSHIP. Any benefit payable under this article to a dependent child as defined by Section 1.02(7)(B) of this Act may be paid only to a guardian who is appointed in accordance with Title 3, Estates Code. Any benefit payable under this article to a dependent child as defined by Section 1.02(7)(A) of this Act may, at the board's discretion, be:

(1) paid to a guardian appointed in accordance with Title 3, Estates Code; or

(2) accrued by the fund and paid directly to the dependent child on the child's 18th birthday.

Sec. 6.14. LUMP-SUM PAYMENT ELECTION FOR SURVIVING SPOUSES. (a) A surviving spouse of a member who is entitled to receive a death benefit under Section 6.02 of this Act may elect to receive a portion of the benefit in a lump-sum payment under this section.

(b) The lump-sum payment may be elected only by a surviving spouse:

(1) of a member who, on the date of death, is eligible:

(A) for service retirement; and

(B) to elect a Backward Deferred Retirement Option Plan; and

(2) who elects to receive a death benefit under Section 6.02(a)(2) of this Act.

(c) If a member is killed in the line of duty and the deceased

member's surviving spouse is entitled to a death benefit annuity under Section 6.03 of this Act, the surviving spouse may not elect a lump-sum payment under this section.

(d) The lump-sum payment is computed by dividing the annuity determined under Subsection (e) by 12 and multiplying the result by the number of months the surviving spouse elects under Subsection (f) of this section.

(e) The annuity used to compute the lump-sum payment is determined in the manner provided by Section 5.01(f-1) of this Act for retired members, using:

(1) the deceased member's average total salary for all months, excluding the number of months immediately preceding the member's date of death that equal the number of months elected by the surviving spouse under Subsection (f) of this section; and

(2) the amount of service credit as determined by Subsection (g) or (h) of this section.

(f) The surviving spouse must elect the number of months used in computing the lump-sum payment. The number of months may not exceed the lesser of:

(1) the number of months of service credit in excess of 20 years that the deceased member has on the date of death; or

(2) 60 months.

(g) Except as provided by Subsection (h) of this section, in determining the annuity under Subsection (e) of this section, the deceased member's service credit is computed as provided by Section 5.01(g) of this Act, less:

(1) the number of months elected by the surviving spouse under Subsection (f) of this section; and

(2) any service credit for unused sick leave to which the member would have been entitled.

(h) In determining the annuity under Subsection (e) of this section for a surviving spouse whose death benefit annuity is limited by Section 6.02(b) of this Act, the deceased member's service credit is the lesser of:

(1) the deceased member's service credit computed as provided by Section 5.01(g) of this Act, less the number of months elected by the surviving spouse under Subsection (f) of this section and less any service credit for unused sick leave to which the member would have been entitled; or

(2) 27 years.

(i) If a surviving spouse elects to receive a lump-sum payment under this section, the total death benefit annuity payable to the surviving spouse under Section 6.02 of this Act is reduced as provided by Subsection (j) of this section. The lump-sum election does not affect the amount of a death benefit annuity payable to a dependent child of a deceased member under Section 6.02 of this Act.

(j) The reduced annuity is determined in the manner provided by Section 5.01(f-1) of this Act for retired members, using:

(1) the deceased member's average total salary for all months, excluding the number of months immediately preceding the member's date of death that equal the number of months elected by the surviving spouse under Subsection (f) of this section; and

(2) the amount of service credit as determined by Subsection (k) or (l) of this section.

(k) Except as provided by Subsection (l) of this section, in determining the reduced annuity under Subsection (j) of this section, the deceased member's service credit is computed as provided by Section 5.01(g) of this Act, less the number of months elected by the surviving spouse under Subsection (f) of this section.

(l) In determining the reduced annuity under Subsection (j) of this section for a surviving spouse whose death benefit annuity is limited by Section 6.02(b) of this Act, the deceased member's service credit is the lesser of:

(1) the deceased member's service credit computed as provided by Section 5.01(g) of this Act, less the number of months elected by the surviving spouse under Subsection (f) of this section; or

(2) 27 years.

ARTICLE 7. INVESTMENTS AND FINANCIAL PROVISIONS

Sec. 7.01. Repealed by Acts 2005, 79th Leg., Ch. 623, Sec. 13, eff. October 1, 2005.

Sec. 7.02. ACCOUNTS. The accounts of the fund and of the members shall be kept separately.

Sec. 7.03. RESERVE RETIREMENT FUND. (a) The board shall determine a reasonably safe amount of surplus necessary to defray reasonable expenses of administering the fund.

(b) All other assets shall be designated as reserve retirement funds.

(c) Only the board may invest and manage the reserve retirement funds for the sole benefit of the plan participants and their

beneficiaries.

Sec. 7.04. INVESTMENT POWERS OF THE BOARD. (a) The board shall cause the reserve retirement funds to be invested in a manner that a prudent investor would invest, considering the purposes, terms, distribution requirements, and other circumstances of an enterprise with a like character and like aims.

(b) The board shall diversify the investment of the fund to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so. In determining whether the board has exercised prudence concerning an investment decision, the investment of all assets of the fund, rather than the prudence of a single investment of the fund, shall be considered.

(c) The board may directly manage the investments of the fund or may choose and contract for professional management services. If the fund owns real estate, it may, at its discretion, establish organizations described by Section 501(c)(2) or (25) of the code to hold title to the real estate.

(d) The board shall have the ultimate responsibility for the investment of the reserve retirement funds. The board may purchase securities or engage in limited partnerships or make other investments not specifically provided by this Act and shall have the authority of exercising discretion in determining the nature, type, quality, and size of any investment consistent with the investment policies it establishes.

Sec. 7.05. PROFESSIONAL CONSULTANTS. (a) The board may contract for professional investment management services, financial consultants, independent auditors, attorneys, and actuaries. Only the board may enter into those contracts and may establish a reasonable fee for compensation.

(b) The board may designate its own custodian or master custodian to perform the customary duties involving the safekeeping of the assets and the execution of transactions of either domestic or foreign securities. The board may engage in a securities lending program consistent with the benefits to plan participants and their beneficiaries.

Sec. 7.06. INVESTMENT CONSULTANT QUALIFICATIONS. In appointing investment consultants, the board shall require that the investment consultant be:

(1) registered under the Investment Advisors Act of 1940 (15 U.S.C. Section 80b-1 et seq.) and its subsequent amendments;

(2) a bank as defined by that Act; or

(3) an insurance company qualified to perform investment services under the laws of more than one state.

ARTICLE 7A. STANDARDS OF CONDUCT AND FINANCIAL DISCLOSURE REQUIREMENTS

Sec. 7.51. POLICY. (a) A member of the board, the executive director, or another employee of the fund may not buy, sell, or exchange any property to or from the fund, deal with the assets of the fund in the person's own interest or for the person's own account, or receive any consideration for the person's personal account from any person dealing with the fund in connection with the income or assets of the fund.

(b) To implement Subsection (a) of this section and to strengthen the faith and confidence of the members and beneficiaries of the fund, the board shall develop standards of conduct and financial disclosure requirements to be observed by each member of the board and by the executive director in the performance of official duties.

(c) Repealed by Acts 1997, 75th Leg., ch. 35, Sec. 37, eff. Oct. 1, 1997.

ARTICLE 8. EXCESS BENEFIT PLAN FOR FIRE FIGHTERS AND POLICE OFFICERS

Sec. 8.01. CREATION OF PLAN. A separate, nonqualified, unfunded excess benefit plan containing the provisions of this subchapter is created outside the fund. The plan is intended to be a "qualified governmental excess benefit arrangement" within the meaning of Section 415(m) of the code.

Sec. 8.02. DEFINITIONS. In this article:

(1) "Excess benefit participant" means any member whose retirement benefits as determined on the basis of all qualified plans, without regard to the limitations of Section 5.10(a) of this Act and comparable provisions of other qualified plans, would exceed the maximum benefit under Section 415 of the code.

(2) "Excess benefit plan" means the excess benefit plan created by this article for the benefit of eligible members.

(3) "Maximum benefit" means the retirement benefit a member or the member's spouse, dependent child, or dependent parent is entitled to receive from all qualified plans in any month after applying Section 5.10(a) of this Act and any similar provisions of any other qualified plans designed to conform to Section 415 of the code.

(4) "Qualified plan" means the fund and any other plan that is

maintained by the municipality for the exclusive benefit of some or all of the members of the fund and that has been found by the Internal Revenue Service to be qualified or has been treated by the municipality as a qualified plan under Section 401 of the code.

(5) "Unrestricted benefit" means the monthly retirement benefit a member or the member's spouse, dependent child, or dependent parent would have received under the terms of all qualified plans except for the restrictions of Section 5.10(a) of this Act and any similar provisions of any other qualified plans designed to conform to Section 415 of the code.

Sec. 8.03. EXCESS BENEFIT ENTITLEMENT. (a) An excess benefit participant who is receiving benefits from the fund is entitled to a monthly benefit under the excess benefit plan in an amount equal to the lesser of:

(1) the member's unrestricted benefit less the maximum benefit; or

(2) the amount by which the member's monthly benefit from the fund has been reduced because of the limitations under Section 415 of the code.

(b) In the case of the death of an excess benefit participant whose spouse, dependent child, or dependent parent is entitled to preretirement or postretirement death benefits under a qualified plan, the spouse, dependent child, or dependent parent is entitled to a monthly benefit under the excess benefit plan equal to the benefit determined in accordance with Article 6 of this Act without regard to the limitations under Section 5.10(a) of this Act or Section 415 of the code, less the maximum benefit.

(c) Any benefit to which any person is entitled under this section shall be paid at the same time and in the same manner as the benefit would have been paid from the fund if payment of the benefit from the fund had not been precluded by Section 5.10(a) of this Act. An excess benefit participant or any beneficiary may not elect to defer the receipt of all or any part of a payment due under this article.

Sec. 8.04. MANNER OF ADMINISTRATION. (a) The board shall administer the excess benefit plan. Except as otherwise provided by this section, the board has the same rights, duties, and responsibilities regarding the excess benefit plan as the board has for the fund.

(b) A consultant, independent auditor, attorney, or actuary

selected to perform services for the fund under Section 7.05 of this Act shall also perform services for the excess benefit plan, but the person's fees for services for the excess benefit plan may not be paid by the fund. The actuary employed under Section 7.05 of this Act shall advise the board of the amount of benefits that may not be provided from the fund solely by reason of the limitations of Section 415 of the code and the amount of municipal contributions that will be made to the excess benefit plan rather than to the fund.

Sec. 8.05. FUNDING OF BENEFITS. (a) Contributions may not be accumulated under the excess benefit plan to pay future retirement benefits. Instead, each payment of municipal contributions that would otherwise be made to the fund under Section 4.05 of this Act shall be reduced by the amount determined by the board as necessary to meet the requirements for retirement benefits under the excess benefit plan, including reasonable administrative expenses, until the next payment of municipal contributions is expected to be made to the fund. The municipality shall then pay to the excess benefit plan out of the withheld contributions, not earlier than the 14th day before the date of each distribution of monthly retirement benefits is required to be made from the excess benefit plan, the amount necessary to satisfy the obligation to pay monthly retirement benefits from the excess benefit plan. The board shall satisfy the obligation of the excess benefit plan to pay retirement benefits out of the municipal contributions transferred for that month.

(b) Municipal contributions otherwise required to be made to the fund under Section 4.05 of this Act and any other qualified plan shall be divided into contributions required to pay retirement benefits under this article and contributions paid into and accumulated to pay the maximum benefits required under the qualified plan. Municipal contributions made to provide retirement benefits under this article may not be commingled with the money of the fund or any other qualified plan.

Sec. 8.06. EXEMPTIONS. Benefits under this article are exempt from garnishment, assignment, attachment, judgment, and other legal process to the same extent as retirement annuities under Section 1.05 of this Act.

Acts 1993, 73rd Leg., ch. 824, Sec. 1.01 to 7.06, eff. Oct. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 169, Sec. 1 to 18, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 35, Sec. 1 to 37, eff. Oct. 1, 1997;

Acts 1999, 76th Leg., ch. 53, Sec. 1 to 24, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 167, Sec. 1 to 22, eff. Oct. 1, 2001; Acts 2001, 77th Leg., ch. 669, Sec. 170, eff. Sept. 1, 2001; Sec. 1.02(7) amended by Acts 2003, 78th Leg., ch. 513, Sec. 1, eff. Oct. 1, 2003; Sec. 3.03(d) amended by Acts 2003, 78th Leg., ch. 416, Sec. 4, eff. June 20, 2003; Sec. 4.01(a) and (c) amended by Acts 2003, 78th Leg., ch. 513, Sec. 2, eff. Oct. 1, 2003; Sec. 4.03(g) repealed by Acts 2003, 78th Leg., ch. 513, Sec. 10, eff. Oct. 1, 2003; Sec. 4.05(a) amended by Acts 2003, 78th Leg., ch. 513, Sec. 3, eff. Oct. 1, 2003; Sec. 4.05(a-1) added by Acts 2003, 78th Leg., ch. 513, Sec. 3, eff. Oct. 1, 2003; Sec. 4.07(b) amended by Acts 2003, 78th Leg., ch. 513, Sec. 4, eff. Oct. 1, 2003; Sec. 4.08 added by Acts 2003, 78th Leg., ch. 513, Sec. 5, eff. Oct. 1, 2003; Sec. 5.03(b) amended by Acts 2003, 78th Leg., ch. 513, Sec. 6, eff. Oct. 1, 2003; Sec. 5.05(b) amended by Acts 2003, 78th Leg., ch. 513, Sec. 7, eff. Oct. 1, 2003; Sec. 6.02(a), (c), and (j) amended by Acts 2003, 78th Leg., ch. 513, Sec. 8, eff. Oct. 1, 2003; Sec. 6.13 amended by Acts 2003, 78th Leg., ch. 513, Sec. 9, eff. Oct. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 623 (H.B. 2374), Sec. 1, eff. October 1, 2005.

Acts 2005, 79th Leg., Ch. 623 (H.B. 2374), Sec. 2, eff. October 1, 2005.

Acts 2005, 79th Leg., Ch. 623 (H.B. 2374), Sec. 3, eff. October 1, 2005.

Acts 2005, 79th Leg., Ch. 623 (H.B. 2374), Sec. 4, eff. October 1, 2005.

Acts 2005, 79th Leg., Ch. 623 (H.B. 2374), Sec. 5, eff. October 1, 2005.

Acts 2005, 79th Leg., Ch. 623 (H.B. 2374), Sec. 6, eff. October 1, 2005.

Acts 2005, 79th Leg., Ch. 623 (H.B. 2374), Sec. 7, eff. October 1, 2005.

Acts 2005, 79th Leg., Ch. 623 (H.B. 2374), Sec. 8, eff. October 1, 2005.

Acts 2005, 79th Leg., Ch. 623 (H.B. 2374), Sec. 9, eff. October 1, 2005.

Acts 2005, 79th Leg., Ch. 623 (H.B. 2374), Sec. 10, eff. October 1, 2005.

Acts 2005, 79th Leg., Ch. 623 (H.B. 2374), Sec. 11, eff. October

1, 2005.

Acts 2005, 79th Leg., Ch. 623 (H.B. 2374), Sec. 12, eff. October 1, 2005.

Acts 2005, 79th Leg., Ch. 623 (H.B. 2374), Sec. 13, eff. October 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1416 (H.B. 2752), Sec. 1, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1416 (H.B. 2752), Sec. 2, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1416 (H.B. 2752), Sec. 3, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1416 (H.B. 2752), Sec. 4, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1416 (H.B. 2752), Sec. 5, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1416 (H.B. 2752), Sec. 6, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1416 (H.B. 2752), Sec. 7, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1416 (H.B. 2752), Sec. 8, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1416 (H.B. 2752), Sec. 9, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1416 (H.B. 2752), Sec. 10, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1416 (H.B. 2752), Sec. 11, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1416 (H.B. 2752), Sec. 12, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1416 (H.B. 2752), Sec. 13, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1416 (H.B. 2752), Sec. 14, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1416 (H.B. 2752), Sec. 15, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1416 (H.B. 2752), Sec. 16, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1416 (H.B. 2752), Sec. 17, eff. October 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 234 (S.B. 1628), Sec. 1, eff.

October 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 234 (S.B. 1628), Sec. 2, eff. October 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 234 (S.B. 1628), Sec. 3, eff. October 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 234 (S.B. 1628), Sec. 4, eff. October 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 234 (S.B. 1628), Sec. 5, eff. October 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 234 (S.B. 1628), Sec. 6, eff. October 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 234 (S.B. 1628), Sec. 7, eff. October 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 234 (S.B. 1628), Sec. 8, eff. October 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 234 (S.B. 1628), Sec. 9, eff. October 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 234 (S.B. 1628), Sec. 10, eff. October 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 234 (S.B. 1628), Sec. 11, eff. October 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 234 (S.B. 1628), Sec. 12, eff. October 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 234 (S.B. 1628), Sec. 13, eff. October 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 234 (S.B. 1628), Sec. 14, eff. October 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 196, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.064, eff. September 1, 2017.

Art. 6243p. POLICE RETIREMENT FUND IN MUNICIPALITIES OF 50,000 TO 400,000.

ARTICLE 1. GENERAL PROVISIONS

Sec. 1.01. APPLICABILITY. This Act applies only to a municipality that:

(1) has a population of more than 50,000 but less than 400,000;

(2) operates under a city manager form of government; and

(3) has never elected to join, adopted, or been required to operate under a public retirement system created by a state statute applicable to municipal police officers.

Sec. 1.02. CREATION OF POLICE PENSION FUND. A police pension fund is hereby authorized in a municipality that adopts this Act. Once a pension fund is adopted in a municipality as provided by Section 1.03 of this Act, any right or privilege accruing to any member under the fund is a vested right according to the terms of this Act and may not be denied or abridged through any change in population or other condition of applicability prescribed by Section 1.01 of this Act. The pension fund shall continue to operate and function regardless of whether the municipality continues to meet the conditions of applicability defined by Section 1.01 of this Act.

Sec. 1.03. ADOPTION OF POLICE PENSION FUND. A municipality may adopt this Act by a majority vote of the municipality's governing body.

Sec. 1.04. DEFINITIONS. In this Act:

(1) "Accumulated contributions" means a member's aggregate contributions made to the pension fund, including interest, if any, as determined by the board of trustees.

(1-a) "Actuarial experience study" has the meaning assigned by Section 802.1014, Government Code.

(1-b) "Actuarially determined contribution rate" means the contribution rate, expressed as a percentage of payroll or compensation, actuarially determined necessary to:

(A) fund the normal cost of the pension fund, the costs of administering the fund, and the unfunded actuarial amortization amount of the fund for the current plan year; and

(B) maintain a closed amortization period that does not exceed 30 years.

(2) "Average monthly compensation" means the result obtained by dividing the total compensation paid to a member during a computation period by the product of the number of years in the computation period multiplied by 12. The computation period is the last 60 consecutive completed calendar months of employment with the municipality or, if the member is employed by the municipality for fewer than 60 calendar months, the computation period is all completed months of employment with the municipality.

(3) "Board of trustees" or "board" means the board of trustees

of the police pension fund.

(4) "Compensation" means the total cash remuneration paid to a member for personal services rendered to the municipality as a police officer, including longevity pay, overtime pay, deferred compensation, workers' compensation, payments for unused vacation or unused sick leave, and picked-up contributions paid by the municipality to the fund.

(5) "Disability" means the existence of a physical or mental condition that in the judgment of the board totally and permanently prevents the member from engaging in any work for pay for the municipality, for any other employer, or in the member's own employment or business. A disability that exists for a period of six months is presumed to be permanent.

(6) "Member" means a properly appointed and enrolled police officer of a municipality that has adopted this Act who is a contributing member of the pension fund.

(6-a) "Normal cost" means the actuarially determined amount necessary to fully fund accrued pension benefits under the pension fund allocated to the current plan year.

(7) "Pension fund" or "fund" means the police pension fund created by this Act.

(8) "Plan year" means the 12-month period beginning January 1 and ending on the following December 31.

(9) "Trustee" means a member of the board of trustees.

(10) "Unfunded actuarial amortization amount" means the actuarially determined amount required to pay off the fund's unfunded actuarial accrued liability layers over a closed 30-year amortization period. The initial layer is equal to the unfunded actuarial accrued liability of the fund in the plan year beginning January 1, 2019. For each subsequent plan year, the unfunded actuarial accrued liability layer is equal to the unanticipated change in the unfunded actuarial accrued liability of the fund in that plan year over the expected unfunded actuarial accrued liability included in the preceding plan year's actuarial valuation.

ARTICLE 2. ADMINISTRATION

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 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 as follows:

(1) the president of the municipality's police association or the president's designee, to serve during the president's term of office;

(2) two trustees designated by the city manager, to serve at the pleasure of the city manager;

(3) two trustees designated by the city council, each to serve a staggered three-year term; and

(4) three trustees elected by the members of the fund, each to serve a staggered three-year term.

(b) A trustee serves until a successor is selected and qualified. A vacancy occurring by death, resignation, or removal is filled in the same manner used to fill the position being vacated. A person appointed or elected to fill a position vacated by death, resignation, or removal serves the remainder of the term, if any, for the position being vacated, at which time the person may be reappointed or stand for election for a full term.

Sec. 2.021. QUALIFICATIONS OF TRUSTEES. (a) To be designated or elected a trustee under Section 2.02 of this Act, a person must have:

(1) demonstrated financial, accounting, business, investment, budgeting, or actuarial experience;

(2) a bachelor's degree from an accredited institution of higher education; or

(3) been vetted to verify that the person is capable of performing the duties and responsibilities of a trustee under this Act and determined qualified for designation or election, as appropriate, to the board by:

(A) the trustee serving on the board under Section 2.02(a)(1) of this Act; and

(B) a trustee designated by the city manager under Section 2.02(a)(2) of this Act.

(b) A person is presumed to have demonstrated the expertise described by Subsection (a)(1) of this section if the person has at

least five years of full-time employment experience working in a field described by that subdivision.

(c) A person is not required to reside in the municipality to be designated or elected a trustee under Section 2.02 of this Act.

Sec. 2.03. ELECTED TRUSTEES. The board shall provide by rule for the procedure for electing trustees described by Section 2.02(a)(4) of this Act.

Sec. 2.035. TRUSTEE TRAINING. (a) A person who is appointed or elected to the board of trustees and qualifies for office as a trustee shall complete a training program that complies with this section.

(b) The training program must provide the trustee with information regarding:

(1) the law governing the pension fund's operations;

(2) the programs, functions, rules, and budget of the fund;

(3) the scope of and limitations on the rulemaking authority of the board;

(4) the results of the most recent actuarial valuation of the fund; and

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to a trustee in performing the trustee's duties, including the board's fiduciary duty to hold and administer the assets of the fund for the exclusive benefit of members and their beneficiaries under Section 802.203, Government Code, Section 67(f), Article XVI, Texas Constitution, and any other applicable law.

Sec. 2.04. ADMINISTRATIVE STAFF. The board may appoint a plan administrator and any other persons necessary to perform administrative services for the board. The board may determine and pay any necessary compensation for persons performing administrative services for the plan and fund.

Sec. 2.05. INVESTMENT MANAGERS. The board may hire one or more investment managers. An investment manager has authority to invest the assets and manage the portfolio of the fund as specified by the manager's employment contract.

Sec. 2.06. INVESTMENT CONSULTANT. The board may hire an investment consultant to monitor the investment performance of an investment manager of the fund and provide other investment advice

requested by the board.

Sec. 2.07. LEGAL COUNSEL. The board may retain legal counsel to advise, assist, or represent the board in any legal matters affecting the operation of the fund.

Sec. 2.08. INVESTMENTS OF THE BOARD. (a) The board is the trustee of the assets of the fund and has full power in its sole discretion to invest and reinvest, alter, and change those assets. The board shall invest the assets in whatever instruments or investments the board considers prudent. In making investments for the fund, the board shall discharge its duties:

(1) for the exclusive purposes of:

(A) providing benefits to members and their beneficiaries; and

(B) defraying reasonable expenses of administering the fund;

(2) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a similar capacity and familiar with such matters would use in the conduct of an enterprise of a similar character and with similar aims;

(3) by diversifying the investments of the fund to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(4) in accordance with the laws, documents, and instruments governing the fund.

(b) The accounts of the fund and money held by the fund to which this Act applies may not be assigned and are not subject to execution, levy, attachment, garnishment, or other legal process.

(c) The right of a member to a pension, to the return of contributions, the pension, or retirement allowance itself, any optional benefit or death benefits, any other right accrued or accruing to any person under this Act, and the money in the trust created by this Act may not be assigned except as specifically provided by this Act or as provided under the terms of a qualified domestic relations order, as defined by Section 804.001, Government Code, and are not subject to execution, levy, attachment, garnishment, the operation of bankruptcy or insolvency law, or any other process of law.

Sec. 2.09. INSURANCE. (a) The board may purchase from an insurer authorized to do business in this state one or more insurance policies that provide for the reimbursement of a trustee, officer, or employee of the board for liability imposed as damages caused by, and

for costs and expenses incurred by the person in defense of, an alleged act, error, or omission committed in the person's capacity as fiduciary of assets of the fund. The board may not purchase an insurance policy that provides for the reimbursement of a trustee, officer, or employee of the board for liability imposed or costs and expenses incurred because of the trustee's, officer's, or employee's personal dishonesty, fraudulent breach of trust, lack of good faith, intentional fraud or deception, or intentional failure to act prudently. The board of trustees shall use money in the fund to purchase an insurance policy under this subsection.

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

(c) A decision to indemnify under this section must be made by five trustees. If a proposed indemnification is of a trustee, the trustee may not vote on the matter.

(d) The board may adopt a rule establishing a method for presentation, approval, and payment of claims for indemnification under this section.

Sec. 2.10. ACTION INCREASING AMORTIZATION PERIOD. Notwithstanding any other provision of this Act, the rate of contributions to the pension fund may not be reduced or eliminated, a new monetary benefit payable by the pension fund may not be established, and the amount of a monetary benefit from the fund may not be increased, if, as a result of the particular action, the time, as determined by an actuarial valuation, required to amortize the unfunded actuarial liabilities of the pension fund would be increased to a period that exceeds 25 years.

Sec. 2.11. ACTUARIAL VALUATIONS. (a) The assumptions and methods adopted by the board and used to prepare an actuarial valuation of the pension fund's assets and liabilities must be

consistent with generally accepted actuarial standards.

(b) Any assumed rate of return adopted by the board under this Act must be reviewed as part of each actuarial valuation conducted on or after January 1, 2020.

Sec. 2.12. INVESTMENT RETURN ASSUMPTIONS; ACTUARIAL EXPERIENCE STUDY REQUIRED. (a) Except as provided by Section 67(f)(3), Article XVI, Texas Constitution, and notwithstanding Section 11.01 of this Act, the board shall adopt an assumed rate of return of seven percent to be used in the preparation of any actuarial valuation conducted on or after September 1, 2019, and before January 1, 2020.

(b) This section expires January 2, 2020.

ARTICLE 3. TAX QUALIFICATION

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

ARTICLE 4. MEMBERSHIP

Sec. 4.01. MEMBERSHIP IN FUND; ELIGIBILITY. (a) A person who has been properly appointed and enrolled as a police officer in a municipality adopting this Act automatically becomes a member of the pension fund of the municipality on the 91st day after the date the municipality adopts the fund created by this Act, except as provided under Section 11.01 of this Act. A person who is already a member of and contributor to a municipality's police pension fund retains and is entitled to all rights and privileges due the person by virtue of having been such a member and contributor.

(b) A person who is not a member of the pension fund on the date for automatic membership under Subsection (a) of this section and who becomes properly appointed and enrolled as a police officer of a municipality adopting the fund created by this Act automatically becomes a member of the fund as a condition of the person's employment, except as provided under Section 11.01 of this Act.

(c) A part-time police officer, a temporary police officer performing emergency services, or a police officer compensated on a fee basis is not eligible for membership in the pension fund.

ARTICLE 5. SERVICE CREDIT

Sec. 5.01. SERVICE. Except as provided by Section 5.02 of this Act, a member shall receive credit for service during all periods of

employment by the municipality as a police officer. Service credit is used in determining the eligibility for benefits and the amount of benefits to which the member is entitled under this Act.

Sec. 5.02. VESTING. No right to retirement benefits provided under this Act vests until a member completes five years of service.

Sec. 5.03. BREAK IN SERVICE. (a) A member has a break in service if the member's employment with the municipality is terminated by reason of the member's quitting, retiring, or being discharged and the member is rehired. An authorized leave of absence, as described in Subsection (b) or (c) of this section, does not constitute a break in service if the member returns to work at the end of the leave.

(b) A member who is granted a leave of absence for military service is entitled to receive service credit for the period of military service if the member:

(1) is honorably discharged;

(2) returns to active employment with the municipality not later than the 90th day after the date the member is discharged; and

(3) is employed by the municipality for at least one full year after the member's return.

(c) A member who is granted a leave of absence for reasons other than military service is entitled to receive service credit for the leave if:

(1) the leave of absence is for a period of three months or less; and

(2) the member returns to active employment before the expiration of the leave period.

(d) A determination as to whether a member was absent or at work shall be made by the board on the basis of whether the member received compensation from the municipality for the period in question. The decision of the board based on the municipality's payroll records is final and binding on the member and the member's beneficiaries.

(e) A member who has a break in service loses credit for all prior service unless the member makes a contribution to the fund in an amount that may be authorized by the board and certified by the actuary for the fund. Except as provided by Subsection (b) of this section, a member may not be given credit for time not employed in the police department.

ARTICLE 6. CONTRIBUTIONS

Sec. 6.01. CONTRIBUTION OF MEMBERS AND PARTICIPATION IN FUND; WAGE DEDUCTIONS. Subject to modification under Section 11.01 of this Act, each member shall make contributions to the fund, and the municipality is authorized to deduct 12 percent of the member's monthly wages as contributions to the fund for service rendered after August 31, 2019.

Sec. 6.02. PICKUP OF MEMBER CONTRIBUTIONS. (a) As provided by Section 414(h)(2), Internal Revenue Code of 1986 (26 U.S.C. Section 414(h)(2)), the municipality shall pick up and pay a member's required contribution. Although the contributions so picked up are designated as member contributions, the contributions shall be treated as contributions being paid by the municipality in lieu of contributions by the member for determining tax liability under the Internal Revenue Code of 1986 and are not included in the gross income of the member until the amounts are distributed or made available to the member or the member's beneficiary. The member may not choose to receive the picked-up contributions directly, and the picked-up contributions must be paid by the municipality to the fund.

(b) Member contributions picked up under Subsection (a) of this section are included in the compensation of the member for purposes of determining benefits and contributions under the fund.

(c) The municipality shall pay the member contributions from the same source of funds used in paying compensation to the member by reducing the gross compensation of the member.

Sec. 6.03. CONTRIBUTIONS BY MUNICIPALITY. (a) Subject to modification under Section 11.01 of this Act and not later than the 15th business day after the first day of the municipality's fiscal year, the municipality shall contribute to the fund 18 percent of payroll based on authorized positions, as determined by the municipality.

(b) Not later than December 31 of the year following the year in which the municipality makes a contribution under Subsection (a) of this section, the municipality shall:

(1) calculate the difference, if any, between the amount of the municipality's actual payroll for the applicable fiscal year and the amount of payroll on which its contribution under Subsection (a) of this section was based; and

(2) contribute to the fund an amount equal to the municipality's applicable contribution rate multiplied by the amount of the difference calculated under Subdivision (1) of this

subsection.

Sec. 6.04. MUNICIPALITY'S LIABILITY. (a) Except as provided by this section, the municipality may not be held liable or responsible for any claim or asserted claim for benefits under the fund, but all claims shall be paid from the money for which provisions have been made under the terms of the plan and fund.

(b) The municipality shall pay the pension fund, in the manner provided by Subsection (d) of this section, money in an amount sufficient to offset any negative financial impact to the fund, as determined by the actuary for the fund, caused by a unilateral action taken by the municipality, including a reduction by the municipality in the number of the municipality's police officers.

(c) The actuary for the fund, as part of the actuary's actuarial valuation of the fund, shall annually determine whether a reduction in the number of municipal police officers by a municipality had a negative financial impact to the fund.

(d) If the actuary determines a negative financial impact to the fund has occurred under this section, the municipality shall:

(1) provide additional funding to the fund in the time frame prescribed for making contribution increases under Section 11.01(b-1) of this Act; and

(2) continue to provide the funding described by Subdivision (1) of this subsection until the negative impact of the action is eliminated as determined by the actuary for the fund.

Sec. 6.05. LOANS TO MEMBERS. A member may borrow from the member's contributions to the fund as approved by the board based on the rules adopted by the board in compliance with the Internal Revenue Code of 1986. The rules must be applied in a nondiscriminatory manner.

ARTICLE 7. RETIREMENT PENSIONS

Sec. 7.01. NORMAL PENSION. A member who retires on or after the member's 65th birthday is entitled to receive a monthly amount equal to the following:

(1) 1.35 percent of the member's average monthly compensation multiplied by the number of years of service, not to exceed 15 years; plus

(2) 1.65 percent of the member's average monthly compensation multiplied by the number of years of service in excess of 15 years, not to exceed an additional 15 years, for a total of 30 years.

Sec. 7.02. EARLY PENSION. (a) A member who terminates

service on or after the member's 55th birthday but before the member's 65th birthday and who has at least 10 years of service credited in the fund is entitled to receive a monthly amount equal to a benefit determined as a fraction of the following amount:

(1) 1.35 percent of the member's average monthly compensation multiplied by the sum of the number of full and fractional years of service, not to exceed 15 years, plus the number of years and full months from the date of termination of employment to the member's 65th birthday; plus

(2) 1.65 percent of the member's average monthly compensation multiplied by the sum of the number of full and fractional years of service, not to exceed an additional 15 years, for a total of 30 years, plus the number of years and full months from date of termination of employment to the member's 65th birthday.

(b) The fraction used to compute an early retirement benefit is determined by dividing the number of full and fractional years of service by the sum of the number of full and fractional years of service plus the number of years and full months from date of termination to the member's 65th birthday.

(c) If payment of an early pension begins before the member's 65th birthday, the amount determined under Subsections (a) and (b) of this section shall be reduced by 1/180th for each of the first 60 months and 1/360th for each of the next 60 months by which the starting date of pension payments precedes that birthday.

Sec. 7.03. SPECIAL EARLY PENSION. (a) A member who terminates service with the municipality on or after the date the member has 20 years of service credited in the fund shall receive a monthly amount beginning the first day of the month following the later of the member's 45th birthday or the date of termination of service. If the member retires before reaching age 62, the member's pension is determined by the following formulas:

(1) the pension benefit payable until the age of 62 is equal to the following:

(A) 1.35 percent of the member's average monthly compensation multiplied by the number of years of service, not to exceed 15 years; plus

(B) 1.65 percent of the member's average monthly compensation multiplied by the number of years of service in excess of 15 years, not to exceed an additional 10 years, for a total of 25 years; plus

(C) 1.0 percent of the member's average monthly compensation

multiplied by the number of years of service in excess of 25 years but not to exceed an additional five years, for a total of 30 years; plus

(D) 1.075 percent of the member's average monthly compensation multiplied by the number of years of service limited to 20 years; plus

(E) 3.35 percent of the member's average monthly compensation multiplied by the number of years of service in excess of 20 years, not to exceed an additional five years; and

(2) the pension benefit payable after the member reaches age 62 is equal to the following:

(A) 1.35 percent of the member's average monthly compensation multiplied by the number of years of service, not to exceed 15 years; plus

(B) 1.65 percent of the member's average monthly compensation multiplied by the number of years of service in excess of 15 years, not to exceed an additional 15 years, for a total of 30 years.

(b) A member who terminates service with the municipality on or after the date the member has 20 years of service credited in the fund and who retires on or after age 62 is entitled to receive a monthly amount equal to:

(1) 1.35 percent of the member's average monthly compensation multiplied by the number of years of service, not to exceed 15 years; plus

(2) 1.65 percent of the member's average monthly compensation multiplied by the number of years of service in excess of 15 years, not to exceed an additional 15 years, for a total of 30 years.

Sec. 7.04. EXTRA-SPECIAL EARLY PENSION. (a) A member who terminates service after having 25 years of service credited in the fund and who retires before the age of 62 is entitled to receive a monthly amount determined by the following formulas:

(1) the pension benefit payable up to the age of 62 equals the following:

(A) 1.35 percent of the member's average monthly compensation multiplied by the number of years of service, not to exceed 15 years; plus

(B) 1.65 percent of the member's average monthly compensation multiplied by the number of years of service in excess of 15 years, not to exceed an additional 10 years, for a total of 25 years; plus

(C) 1.0 percent of the member's average monthly compensation

multiplied by the number of years of service in excess of 25 years, not to exceed an additional five years, for a total of 30 years; plus

(D) 1.075 percent of the member's average monthly compensation multiplied by the number of years of service, not to exceed 20 years; plus

(E) 3.35 percent of the member's average monthly compensation multiplied by the number of years of service in excess of 20 years, not to exceed an additional five years; and

(2) the pension benefit payable after the member reaches age 62 is equal to the following:

(A) 1.35 percent of the member's average monthly compensation multiplied by the number of years of service, not to exceed 15 years; plus

(B) 1.65 percent of the member's average monthly compensation multiplied by the number of years of service in excess of 15 years, not to exceed an additional 15 years, for a total of 30 years.

(b) A member who meets the requirements for an extra-special early pension and who retires on or after age 62 is entitled to receive a monthly amount equal to the following:

(1) 1.35 percent of the member's average monthly compensation multiplied by the number of years of service, not to exceed 15 years; plus

(2) 1.65 percent of the member's average monthly compensation multiplied by the number of years of service in excess of 15 years, not to exceed an additional 15 years, for a total of 30 years.

Sec. 7.05. REEMPLOYMENT OF RETIRED MEMBERS ELIGIBLE TO RECEIVE CERTAIN PENSIONS. If a retired member eligible to receive a normal, early, special early, or deferred vested pension is reemployed by the municipality, the payment of any pension, whether or not payment has begun, to which the retired member is entitled from the plan may not be suspended, whether or not the person again becomes a member. The retired member shall be treated as a new employee for purposes of determining the person's membership in this plan and for purposes of determining the person's service after reemployment. However, for purposes of computing any death benefit under this plan, the previous period of service shall be used if it produces a greater amount of death benefit than the member's last period of service.

Sec. 7.06. MODIFICATION. The pensions provided by Sections 7.01-7.04 of this Act are subject to modification as provided by

Section 11.01 of this Act.

ARTICLE 8. DEFERRED VESTED PENSION

Sec. 8.01. DEFERRED VESTED PENSION. (a) A member is eligible for a deferred vested pension if the member's employment is terminated, for reasons other than death or retirement under a normal, early, special early, extra-special early, or disability pension, on or after the completion of five or more years of service.

(b) Payment of a deferred vested pension begins as of the first day of the month following the member's 65th birthday, if the member is then living. If the member has completed 10 years of service, the member may request the deferred vested pension to begin as of the first day of the month following the member's 55th birthday or as of the first day of any subsequent month that precedes the member's 65th birthday.

(c) If payment of a deferred vested pension begins before the member's 65th birthday, the amount shall be reduced by 1/180th for each of the first 60 months and 1/360th for each of the next 60 months by which the starting date of the pension payment precedes the member's 65th birthday. The provisions of this section are subject to change as provided by Section 11.01 of this Act.

ARTICLE 9. DISABILITY PENSIONS

Sec. 9.01. DISABILITY PENSIONS. (a) A member is eligible for a disability pension if the member's employment is terminated by reason of a disability before the member's 65th birthday.

(b) Payment of a disability pension begins following a 12-month waiting period following the member's termination of service based on disability, except that if disability is presumed to be permanent before the completion of the 12-month period, disability payments begin following the certification of the disability.

(c) Payment of a disability pension may not begin until the disability is certified to be continuous for a period of 90 days.

(d) Payment of a disability pension ends on the member's death or the end of the member's disability. If the disability ends on or after the member's 65th birthday, the member's disability pension shall be continued in the same manner as if the disability had continued.

Sec. 9.02. REEMPLOYMENT FOLLOWING DISABILITY. (a) If a member who has received any disability pension payments recovers and is reemployed by the municipality as a police officer not later than the 30th day after the date of certification that the disability has

ended, the member's membership in the fund shall be reinstated as of the date the person returns to active employment.

(b) The member shall receive credit for all service with the municipality credited to the member at the inception date of the member's disability.

(c) The board may extend the 30-day period when, in the board's judgment, reasonable cause exists for extending the period.

Sec. 9.03. END OF DISABILITY BEFORE AGE 65. If a member's disability ends before the member's 65th birthday and the member is not reemployed by the municipality, the member shall be treated as a terminated member and is not entitled to further benefits except the excess, if any, of the member's accumulated contributions less the total amount of disability benefits received. However, if the member meets the requirements for an early, special early, extra-special early, or deferred vested pension on the date of termination for disability, the member is entitled to receive a pension equal in amount to the early, special early, extra-special early, or deferred vested pension the member would have been entitled to as of the date of the member's disability.

Sec. 9.04. INELIGIBILITY FOR DISABILITY PENSION. A member is not eligible for a disability pension if the board determines that the member's disability results from:

(1) addiction to narcotics or hallucinogenic drugs;

(2) an injury suffered while engaged in a felonious or criminal act or enterprise;

(3) a self-inflicted injury;

(4) voluntary or involuntary service in the armed forces of any nation; or

(5) an absence in excess of three months for which the member received no earnings from the municipality, unless the absence was due to sickness or accident that resulted in disability.

Sec. 9.05. RULES CONCERNING DISABILITIES. The board may establish rules as appropriate to certify a member's disability and to verify the continued existence of the disability.

Sec. 9.06. AMOUNT OF DISABILITY PENSION. Subject to Section 11.01 of this Act, a member who meets the requirements for a disability pension is entitled to receive a monthly amount determined as follows:

(1) the pension payable until age 65 equals 60 percent of the member's monthly rate of pay at the time of the disability minus any

primary social security benefit actually paid to the member and the amount of other payments the member is entitled to receive from workers' compensation or any other disability plan, except that a member's disability pension under this Act may not exceed $1,500 per month; and

(2) the pension payable beginning at age 65 is an amount computed in the same manner as for a normal retirement pension considering the member's compensation and service as if:

(A) the member had continued employment with the municipality until the member's 65th birthday; and

(B) the member's rate of pay had remained constant from the time of disability until the member's 65th birthday.

ARTICLE 10. SEVERANCE AND DEATH BENEFITS; REFUND OF CONTRIBUTIONS

Sec. 10.01. SEVERANCE BENEFITS. (a) A member whose employment with the municipality is terminated before the member qualifies for a benefit is entitled to receive a refund of accumulated contributions, payable in a lump sum or in installments without interest.

(b) A member who receives a payment under this section forfeits any further rights or benefits from the fund.

Sec. 10.02. REFUND OF CONTRIBUTIONS. (a) In lieu of any other benefit to which a retired member may be entitled, a member may elect to receive a refund of accumulated contributions, payable in a lump sum or in installments without interest.

(b) A member who receives a payment under this section forfeits any further rights or benefits from the fund.

Sec. 10.03. DEATH OF MEMBER WHILE ACTIVELY EMPLOYED BY MUNICIPALITY. (a) If a member dies while actively employed by the municipality, leaving a spouse or a dependent child under the age of 18, the board shall order a monthly allowance as provided by this section.

(b) The surviving spouse of an active member who, on the date of the member's death, had completed five or more years of service is eligible to receive a spouse's pension, payable monthly in an amount equal to 50 percent of the amount computed for a normal retirement pension but using the member's compensation and service earned as of the date of death. Payment of a spouse's pension continues until the death or remarriage of the spouse.

(c) If there is not a surviving spouse, each surviving dependent child of the deceased member under the age of 18 is eligible for a

dependent child's pension, payable monthly in an amount equal to 50 percent of the amount computed for a normal retirement pension, but using the member's compensation and service earned as of the date of death. If there is more than one such child, the monthly amount shall be divided equally among the children at the time the amount is paid. Payment of a dependent child's pension continues until the child attains the age of 18 or until the child's death, whichever occurs first.

(d) If a surviving spouse receiving a spouse's pension dies leaving a surviving dependent child or children under the age of 18, the spouse's pension shall be continued to the child or children under the terms of this section.

(e) If a member dies while actively employed by the municipality after having completed five or more years of service with the municipality and leaves no surviving spouse or dependent children, the member's beneficiaries are eligible to receive a death benefit equal to the greater of the member's total accumulated contributions or $2,500.

(f) If a member dies while actively employed by the municipality after having completed less than five years of service with the municipality, the member's beneficiaries are eligible to receive a death benefit equal to the member's accumulated contributions.

(g) The total amount of death benefit payments payable under Subsection (f) of this section may not be less than the greater of $2,500 or the total amount of the member's accumulated contributions. If a spouse or dependent child dies before receiving the minimum amount and is not survived by another person entitled to the death benefit, the balance of that amount is payable in a lump sum to the estate of the decedent. If the spouse remarries before receiving that amount and there are no surviving dependent children to receive payment, the balance of the death benefit is payable in a lump sum to the beneficiaries of the member.

Sec. 10.04. DEATH OF RETIRED MEMBER. (a) If a member dies under a normal, early, special early, extra-special early, or disability pension, or retires under an early, special early, extra-special early, or disability pension but dies before beginning to receive the pension and is survived by a spouse, the spouse is eligible for a monthly pension if the spouse was married to the member before the member's termination of service with the municipality's police department.

(b) The pension is equal to 50 percent of the pension to which the member was entitled on the date of death. If the retired member retired and began receiving a pension before the age of 62, the monthly amount of the pension payable to the member's surviving spouse after the date on which the retired member would have attained age 62 shall be reduced to 50 percent of the pension which the retired member would have received had the member attained age 62.

(c) If a retired member who is receiving disability retirement benefits dies before the age of 65, the monthly amount of the pension shall be equal to 50 percent of the pension the member would have received had the member worked until the date of death at the rate of pay in effect at the inception of the disability.

(d) Payment of the pension continues until the date of death or remarriage of the spouse, whichever occurs first.

(e) The total benefit payments payable under this section may not be less than the greater of the retired member's total accumulated contributions, or $2,500, less any previous payments made to the retired member. If the spouse dies before receiving that amount, the balance of the minimum amount of the death benefit is payable in a lump sum to the spouse's estate. If the spouse remarries before receiving the minimum amount or if the retired member and the spouse are divorced on the retired member's date of death, the balance of the minimum amount of the death benefit is payable in a lump sum to the beneficiaries of the retired member.

(f) If a member dies under a normal, early, special early, extra-special early, or disability pension, or retires under an early, special early, extra-special early, or disability pension but dies before beginning to receive the pension and does not leave a surviving spouse, the beneficiaries of the retired member are eligible for a death benefit equal to the greater of the member's accumulated contribution or $2,500, less any payments previously made to the deceased member.

(g) If a member who is entitled to or is receiving a deferred vested pension dies, the member's beneficiaries are eligible for a death benefit, payable in a lump sum, equal to the deceased member's total accumulated contributions, less any pension payments previously received.

Sec. 10.05. DESIGNATION OF BENEFICIARY BY BOARD. If a member dies without having designated one or more beneficiaries, the board may designate a beneficiary under rules adopted by the board as

provided by Section 2.01 of this Act.

Sec. 10.06. MODIFICATION OF SEVERANCE AND DEATH BENEFITS. This article is subject to any modifications made in accordance with Section 11.01 of this Act.

ARTICLE 11. MODIFICATIONS

Sec. 11.01. MODIFICATION OF BENEFITS, MEMBERSHIP QUALIFICATIONS, ELIGIBILITY REQUIREMENTS, AND CONTRIBUTIONS. (a) Subject to Section 2.10 of this Act and except as otherwise provided by this section, the board, with the approval of at least six board members, may modify:

(1) benefits provided by this Act, including the multiplier by which a pension benefit amount provided under Article 7 of this Act is calculated, except that any increase in benefits is subject to Subsection (b) of this section;

(2) future membership qualifications;

(3) eligibility requirements for pensions or benefits, including the age at which a member is eligible to retire; or

(4) subject to Subsection (b) of this section, the contribution rates provided by Sections 6.01 and 6.03 of this Act.

(b) Notwithstanding any other provision of this Act, the board of trustees may not modify the contribution rates expressly provided by Sections 6.01 and 6.03 of this Act before January 1, 2025. If, on or after January 1, 2025, the fund's most recent actuarial valuation recommends an actuarially determined contribution rate that exceeds the aggregate contribution rates provided by Sections 6.01 and 6.03 of this Act, as modified under this section, if applicable, the board shall:

(1) calculate the difference between the actuarially determined contribution rate and the aggregate contribution rates; and

(2) by rule, increase the contribution rates applicable under Sections 6.01 and 6.03 of this Act by 50 percent of the difference calculated under Subdivision (1) of this subsection.

(b-1) An increase in contribution rates under Subsection (b) of this section may not take effect before:

(1) the January 1 following the date on which the board of trustees approved the applicable actuarial valuation, if the approval occurred at least three months before the first day of the municipality's fiscal year; or

(2) the first day of the municipality's fiscal year that

begins more than three months after the date the board approved the applicable actuarial valuation, if the approval occurred less than three months before the first day of the municipality's next fiscal year.

(c) Notwithstanding any other provision of this Act, the board, with the approval of at least five board members, may provide for refunds, in whole or in part, with or without interest, of accumulated contributions made to the fund by members who leave the municipality's service before qualifying for a pension.

(d) Actions authorized under this section may not be made unless first reviewed by a qualified actuary selected by the board. To qualify, an actuary who is an individual must be a Fellow of the Society of Actuaries or a member of the American Academy of Actuaries. The basis for the actuary's approval or disapproval of a board action is not subject to judicial review.

Acts 1997, 75th Leg., ch. 325, eff. May 26, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1138 (H.B. 2763), Sec. 1, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1138 (H.B. 2763), Sec. 2, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1138 (H.B. 2763), Sec. 3, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1138 (H.B. 2763), Sec. 4, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1138 (H.B. 2763), Sec. 5, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1138 (H.B. 2763), Sec. 6, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1138 (H.B. 2763), Sec. 7, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1138 (H.B. 2763), Sec. 8, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1138 (H.B. 2763), Sec. 9, eff. June 14, 2019.

Art. 6243q. RETIREMENT HEALTH TRUST FOR FIREFIGHTERS AND POLICE

OFFICERS.

ARTICLE 1. GENERAL PROVISIONS

Sec. 1.01. PURPOSE. Because of the lasting health consequences associated with the stressful nature of the professions of firefighting and law enforcement, the purpose of a fund established by this Act is to provide health care benefits for persons who retired on or after October 1, 1989, from a municipal fire or police department to which this Act applies.

Sec. 1.02. DEFINITIONS. In this Act:

(1) "Actuary" means an actuary selected by the board to conduct an actuarial study who is a Fellow of the Society of Actuaries, a Fellow of the Conference of Consulting Actuaries, or a member of the American Academy of Actuaries.

(1-a) "Annual member payroll" means the amount computed on the first payroll date in June of the applicable fiscal year that equals the product of the base pay plus additional compensation for employment longevity paid to all members for services rendered multiplied by the total number of payroll dates in the fiscal year.

(1-b) "Average member salary" means the amount computed on the first payroll date in June of the applicable fiscal year that equals the quotient of the annual member payroll for the fiscal year divided by the number of members.

(2) "Board" means the board of trustees of a fund established under Section 1.04 of this Act.

(3) "Beneficiary" means a retiree, or the spouse or other eligible dependent of a retiree, who is entitled to receive retiree health benefits under Section 5.01(a) of this Act.

(4) "Collective bargaining agreements" means the collectively bargained agreements in effect on January 1, 2004, between a municipality to which this Act applies and the exclusive bargaining agents of the firefighters and police officers of the municipality under Chapter 174, Local Government Code.

(5) "Firefighter" means an employee of the fire department who is classified as a firefighter by the personnel department of a municipality to which this Act applies.

(6) "Fund" means the firefighter's and police officer's retiree health care fund of a municipality to which this Act applies.

(6-a) "Master contract document" means the master contract in effect on January 1, 2004, containing the terms and conditions of the health and medical benefits plan established under the collective

bargaining agreements.

(6-b) "Member" means a firefighter or police officer, except as provided by Section 4.011 of this Act.

(6-c) "Payroll date" means the date every other week on which a municipality to which this Act applies pays regular compensation to members.

(6-d) "Pension act" means Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas Civil Statutes).

(6-e) "Pension fund" means the firefighters' and police officers' pension fund of a municipality to which the pension act applies.

(7) "Police officer" means an employee of the police department who is classified as a police officer by the personnel department of a municipality to which this Act applies.

(8) "Retiree" means an individual who was a firefighter or police officer whose retirement date is after September 30, 1989.

(8-a) "Retiree health plan" means the group family health plan for retirees and other beneficiaries established by the collective bargaining agreements and the master contract document.

(9) "Trustee" means a member of the board.

(10) "Years of service" means the number of full years beginning on the date the firefighter or police officer becomes a member of the fund until the date the firefighter or police officer retires or otherwise terminates employment as a firefighter or police officer less any service credit for the amount of time the member is engaged in active service with any uniformed service of the United States that the member does not purchase in accordance with Section 4.023 of this Act.

Sec. 1.03. APPLICABILITY. This Act applies to a paid fire and police department of a municipality with a population of 1.3 million or more but less than 1.5 million.

Sec. 1.04. FUND; STATUTORY TRUST. (a) The firefighters' and police officers' retiree health care fund is established for each municipality to which this Act applies. The fund is a statutory trust and is not a subdivision of government.

(b) The board shall administer and hold in trust the assets of the fund for the exclusive benefit of the beneficiaries of the fund. The board may pay from the fund reasonable administrative expenses incurred in administering the fund.

(c) The fund may not be diverted, transferred, or used for any other purpose inconsistent with this Act and with the instruments governing the fund.

(d) A public or private agency, entity, or authority may not alter or impair any contract made by the board or under the authority or direction of the board.

Sec. 1.05. EXEMPTIONS. The health benefits paid or payable by the fund are exempt from garnishment, assignment, attachment, judgments, other legal processes, and inheritance or other taxes established by this state.

ARTICLE 2. ADMINISTRATIVE PROVISIONS

Sec. 2.01. BOARD OF TRUSTEES. (a) The firefighters' and police officers' retiree health care fund of a municipality is governed by a board of trustees consisting of the following nine members:

(1) the mayor of the municipality or the mayor's designee;

(2) two members of the municipal governing body, appointed by that governing body;

(3) two members of the fund who are firefighters below the rank of fire chief, elected by secret ballot by a majority of the votes cast by the members of the fund who are firefighters;

(4) two members of the fund who are police officers below the rank of police chief, elected by secret ballot by a majority of the votes cast by the members of the fund who are police officers;

(5) a retiree representative of the fire department, elected by secret ballot by a majority of the votes cast by the retirees of the fire department who are beneficiaries of the fund and the surviving spouses of deceased firefighters who are beneficiaries of the fund; and

(6) a retiree representative of the police department, elected by secret ballot by a majority of the votes cast by the retirees of the police department who are beneficiaries of the fund and the surviving spouses of deceased police officers who are beneficiaries of the fund.

(b) The board, through its secretary, shall administer the required elections of the members and retiree trustees. The board shall hold a runoff election between the two candidates receiving the most votes if no candidate receives a majority of the votes cast for a trustee position. On the executive director's certification that a candidate for trustee is eligible for office and is unopposed for

election, the board shall certify the candidate as elected to the board.

(c) The fund is independent of the control of the municipality.

Sec. 2.02. TERMS OF TRUSTEES. (a) Subject to Subsection (a-1) the mayor of the municipality or the mayor's designee, serves on the board for the term of the mayor's office.

(a-1) The mayor may remove and replace the mayor's designee at the mayor's discretion.

(b) The two members of the municipal governing body serve on the board for the term of the office to which they were elected.

(c) The two members of the fund who are firefighters below the rank of fire chief serve on the board for staggered four-year terms, with one member's term expiring every two years.

(d) The two members of the fund who are police officers below the rank of police chief serve on the board for staggered four-year terms, with one member's term expiring every two years.

(e) The retiree representatives serve on the board for staggered four-year terms, with one member's term expiring every two years.

Sec. 2.03. RESIGNATION OR REMOVAL OF TRUSTEES. (a) A trustee who is a retiree or a member of the fund may resign or may be removed by a vote of the group eligible to elect the trustee.

(b) A petition for removal under this section must be filed with the board within 45 days after the date the first signature on the petition was obtained. A signature is not valid if it is not dated.

(c) A removal election must be held within 90 days after the date the board certifies that a proper petition for a removal election has been signed by at least 20 percent of the persons eligible to vote to elect the trustee. A trustee's term of service ends on the entry of an order by the board declaring that a majority of the votes cast in a removal election under this section favor removal.

(d) On the date the board enters an order under Subsection (c) of this section, the board shall call a special election to be held not less than 20 and not more than 30 days after that date to fill the vacancy for the unexpired term of the trustee who was removed. The trustee who was removed is not eligible to run in the special election but is eligible to run in all subsequent elections in which the person is otherwise eligible to run.

Sec. 2.04. OFFICERS. (a) The board shall elect a chair, a vice chair, and a secretary from among the trustees.

(b) The board in its discretion may elect other officers of the board. An officer may be, but is not required to be, a trustee.

Sec. 2.05. EMPLOYEES. The board may employ an executive director and staff to administer the fund.

Sec. 2.06. MEETINGS; QUORUM. (a) The board shall hold regular monthly meetings and special meetings at the call of the chair or on written demand by a majority of the trustees.

(b) Five trustees constitute a quorum. The board may act with the consent of a majority of the trustees who are present at a board meeting at which a quorum is present.

Sec. 2.07. BOARD COMMITTEES. (a) The chair of the board may appoint committees that report to the board.

(b) Only trustees may be appointed to a committee under this section.

(c) A committee must be composed of not fewer than three and not more than four trustees, except as otherwise specifically provided by the board.

(d) Only members of a committee may vote as committee members.

(e) The board may direct staff and advisors to assist the committees.

(f) All trustees may attend committee meetings.

(g) Members of a committee serve at the pleasure of the board.

(h) Permanent or standing committees may be appointed.

ARTICLE 3. GENERAL POWERS AND DUTIES

Sec. 3.01. GENERAL POWERS AND DUTIES OF BOARD. (a) The board has complete authority and power to:

(1) administer the fund for the exclusive benefit of the beneficiaries of the fund;

(2) order payments from the fund;

(3) independently control the fund; and

(4) conduct all litigation on behalf of the fund.

(b) The board may contract with a municipality or other entity to receive the following services:

(1) the administration of benefit claims of beneficiaries, including payment of claims from money in the fund;

(2) the administration of the board's administrative expenses, including payment of the expenses from money in the fund as approved in advance by the board; and

(3) other administrative services approved by the board.

(c) The board shall adopt rules necessary for the board's

effective operation, including rules relating to:

(1) the disbursement of the fund's assets; and

(2) the name of the board and the fund.

(d) The board shall take any action necessary to ensure that contributions to the fund and benefits received from the fund are exempt from federal taxes and excluded from a beneficiary's taxable income.

(e) The board shall report annually to the governing body of the municipality regarding the condition of the fund and the receipts and disbursements of the fund.

(f) The board has full discretion and authority to administer the fund and the retiree health plan, construe and interpret this Act and the retiree health plan, correct any defect or omission, reconcile any inconsistency, and perform all other acts necessary to carry out the purpose of this Act and the retiree health plan and administer this Act and the retiree health plan for the greatest benefit of all members in a manner and to the extent that the board considers expedient.

(g) A gathering of any number of trustees to investigate, research, or review prospective or current investments or otherwise attend to the trustees' fiduciary responsibilities, without formal action by the trustees, is not a deliberation or meeting under Chapter 551, Government Code, and is not required to be open to the public.

(h) The trustees of the fund are immune from liability for any action taken or omission made in good faith in the performance of their duties for the fund.

(i) Information contained in a record that is in the custody of the fund concerning a member, former member, retiree, deceased retiree, beneficiary, or alternate payee is confidential under Chapter 552, Government Code. The information may not be disclosed in a form that identifies a specific individual, unless the information is disclosed:

(1) to the individual;

(2) to the individual's spouse, attorney, guardian, executor, administrator, or conservator, or to another person the executive director or the executive director's designee determines from written documentation to be acting in the interest of the individual or the individual's estate;

(3) to a person authorized by the individual in writing to

receive the information;

(4) to a government official or employee seeking the information in order to perform the duties of the official or employee; or

(5) under a subpoena.

(j) Subsection (i) of this section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree, deceased member, deceased retiree, beneficiary, or alternate payee of the fund.

(k) A determination and disclosure under Subsection (i) of this section does not require notice to the member, retiree, beneficiary, or alternate payee.

Sec. 3.02. AUTHORITY OF MUNICIPALITY. The municipality has the authority and power to:

(1) contract with the board, as described in Section 3.01(b) of this Act;

(2) provide services through a subcontractor in a contract under Section 3.01(b) of this Act;

(3) take any action necessary to ensure that contributions to the fund and benefits received from the fund are exempt from federal taxes and excluded from a beneficiary's taxable income; and

(4) control the internal functions of the municipality relating to the municipality's interactions with or activities on behalf of the fund.

Sec. 3.03. Repealed by Acts 1999, 76th Leg., ch. 52, Sec. 24(b), eff. Oct. 1, 1999.

Sec. 3.04. INSURANCE. (a) The board may use fund assets to purchase insurance from any insurer licensed to do business in this state that provides for reimbursement of the fund and any trustee, officer, or employee of the fund for:

(1) liability imposed or damages incurred because of an alleged act, error, or omission committed in the capacity of a fiduciary, officer, or employee; and

(2) costs and expenses incurred in defense of a claim for an alleged act, error, or omission.

(b) The board may not purchase insurance for reimbursement of a trustee, officer, or employee of the fund for liability imposed on the trustee, officer, or employee because of the person's dishonesty, fraud, lack of good faith, or intentional failure to act prudently.

Sec. 3.05. INDEMNITY. (a) If insurance purchased by the

board under Section 3.04 of this Act is unavailable, insufficient, inadequate, or otherwise not in effect, the board may indemnify a trustee, officer, or employee of the fund for liability imposed as damages because of an alleged act, error, or omission committed by the person in the capacity of a fiduciary, officer, or employee and for reasonable costs and expenses incurred in defense of a claim of an alleged act, error, or omission.

(b) The board may not indemnify a trustee, officer, or employee of the fund for liability or expenses incurred because of the person's personal dishonesty, fraud, lack of good faith, or intentional failure to act prudently.

(c) A trustee may not vote on a matter of the trustee's own indemnification or be counted in determining whether a quorum is present for the vote.

(d) The board may adopt a policy establishing a method for presentation, approval, and payment of claims for indemnification.

(e) If insurance purchased by the board under Section 3.04 of this Act is unavailable, insufficient, inadequate, or otherwise not in effect, the board may indemnify a former trustee, officer, or employee of the fund under this section for an alleged act, error, or omission committed by the person in the capacity of a fiduciary, officer, or employee and for reasonable costs and expenses incurred in defense of a claim of an alleged act, error, or omission.

(f) The board may authorize indemnification of a trustee, officer, or employee of the fund, or a former trustee, officer, or employee of the fund under this section regardless of when the alleged act, error, or omission occurred, provided that the person is considered liable for the alleged act, error, or omission in relation to the person's capacity as a current or former trustee, officer, or employee of the fund.

ARTICLE 4. MEMBERSHIP AND CONTRIBUTIONS

Sec. 4.01. MEMBERSHIP. Each member is a member of the fund.

Sec. 4.011. MEMBERSHIP OF FIRE CHIEF AND CHIEF OF POLICE. Not later than the 30th day after the date a fire chief or a chief of police of a municipality assumes office, the fire chief or chief of police may make an irrevocable election to not become a member of the fund or to terminate membership in the fund by delivering written notice of such election to the secretary of the board. A fire chief or chief of police who does not make an election under this subsection is considered to have chosen to become or to remain a

member of the fund.

Sec. 4.02. MEMBER AND BENEFICIARY CONTRIBUTIONS. (a) Subject to Section 4.022 of this Act, there shall be deducted from each member's compensation and contributed to the fund on each payroll date an amount equal to the member contribution amount applicable to the fiscal year in which the payroll date occurs. The member contribution amount applicable to a fiscal year equals the amount obtained by:

(1) multiplying the average member salary for the preceding fiscal year by the percentage equal to 100 percent plus the estimated percentage increase in the annual member payroll from the preceding fiscal year to the fiscal year as determined by the actuary;

(2) multiplying the product computed under Subdivision (1) of this subsection by the percentage applicable to the fiscal year as provided in Subsection (b) of this section; and

(3) dividing the product computed under Subdivision (2) of this subsection by the total number of payroll dates that occur during the fiscal year.

(b) For purposes of Subsections (a)(2) and (d)(2) of this section, the percentage applicable to each fiscal year is:

(1) 2.0 percent for the fiscal year beginning October 1, 2007, and ending September 30, 2008;

(2) 2.7 percent for the fiscal year beginning October 1, 2008, and ending September 30, 2009;

(3) 3.4 percent for the fiscal year beginning October 1, 2009, and ending September 30, 2010;

(4) 4.1 percent for the fiscal year beginning October 1, 2010, and ending September 30, 2011; and

(5) 4.7 percent for the fiscal year beginning October 1, 2011, and all subsequent fiscal years.

(c) Subject to Subsection (e) of this section, to be eligible for health benefits under Section 5.01 of this Act, a service retiree or disability retiree who retired or retires with less than 30 years of service, or the retiree's surviving spouse in the case of a deceased retiree, shall continue to make monthly contributions in accordance with Subsection (d) of this section to the fund after the date of the retiree's retirement for the lesser of:

(1) the period preceding the date the retiree becomes or would have become eligible for federal Medicare coverage; or

(2) the period equal to 30 years less the retiree's years

of service achieved on the date of the retiree's retirement.

(d) The pension fund shall deduct the contribution required under Subsection (c) of this section from the monthly retirement benefit payment or death benefit payment paid to each retiree or retiree's spouse required to make the contributions, excluding payments made by the pension fund under Section 6.12 of the pension act. The pension fund shall deduct an amount equal to the retiree contribution amount applicable to the fiscal year in which the benefit payment occurs. The retiree contribution amount applicable to a fiscal year equals the amount obtained by:

(1) multiplying the average member salary for the preceding fiscal year by a percentage equal to 100 percent plus the estimated percentage increase in the annual member payroll from the preceding fiscal year to the fiscal year as determined by the actuary;

(2) multiplying the product computed under Subdivision (1) of this subsection by the percentage applicable to the fiscal year as provided by Subsection (b) of this section; and

(3) dividing the product computed under Subdivision (2) of this subsection by 12.

(e) A retiree who retired under the pension act as a result of a disability, or the disability retiree's surviving spouse in the case of a deceased disability retiree, is not required to make contributions under Subsection (c) of this section for more than 10 years following the date of the disability retiree's retirement.

(f) This section applies only to members who retire as a service or disability retiree after October 1, 2007, and their surviving spouses.

(g) The municipal contributions to and health benefits paid from the fund are a part of the compensation for services rendered to a municipality to which this Act applies. This Act is considered part of the contract of employment and appointment of the firefighters and police officers of that municipality.

Sec. 4.021. CONTRIBUTIONS BY A MUNICIPALITY. (a) Subject to Section 4.022 of this Act, a municipality to which this Act applies shall pay into the fund on each payroll date the municipal contribution amount applicable to the fiscal year in which the payroll date occurs. The municipal contribution amount applicable to a fiscal year equals the amount obtained by:

(1) multiplying the average member salary for the preceding fiscal year by the percentage equal to 100 percent plus the estimated

percentage increase in the annual member payroll from the preceding fiscal year to the fiscal year as determined by the actuary;

(2) multiplying the product computed under Subdivision (1) of this subsection by 9.4 percent;

(3) dividing the product computed under Subdivision (2) of this subsection by the total number of payroll dates that occur during the fiscal year; and

(4) multiplying the quotient computed under Subdivision (3) of this subsection by the number of individuals who are members on the payroll date.

(b) The municipal contributions to and health benefits paid from the fund are part of the compensation for services rendered to the municipality. This Act is considered part of the contract of employment and appointment of the firefighters and police officers of that municipality.

Sec. 4.022. MANDATORY ADJUSTMENTS TO RETIREE HEALTH PLAN CONTRIBUTIONS, OUT-OF-POCKET PAYMENTS, AND DEDUCTIBLES. (a) Subject to Subsection (b) of this section, if on October 1, 2017, the actuary determines and states in the then most recent actuarial report delivered to the board that the number of years required to fully amortize the unfunded liability of the fund is more than 30 years, the board shall modify the retiree health plan as follows:

(1) the amount of the contributions in effect under Sections 4.02 and 4.021 of this Act shall be increased by a percentage determined by the board not to exceed 10 percent on October 1 of each year, commencing October 1, 2017; and

(2) the maximum deductibles and maximum out-of-pocket payments for each individual in a calendar year and for each family in a calendar year set out in the retiree health plan then in effect shall be increased by a percentage determined by the board not to exceed 10 percent on January 1 of each year, commencing January 1, 2018.

(b) The board is not required to implement additional increases under Subsection (a) of this section if the actuary determines and states in the actuarial report delivered to the board under that subsection that the number of years required to fully amortize the unfunded liability of the fund is 30 years or less.

(c) Except as provided by this section, the board may not change the amount of contributions to the fund by a member under Section 4.02 of this Act or a municipality under Section 4.021 of

this Act.

Sec. 4.023. UNIFORMED SERVICE. (a) A member of the fund who enters any uniformed service of the United States may not:

(1) be required to make the monthly payments into the fund as required by this Act while the member is engaged in active service with the uniformed service; or

(2) lose any seniority rights or retirement benefits provided by this Act because of that service.

(b) Not later than the 90th day after the date of the member's reinstatement to an active status in a fire or police department, the member shall file with the secretary of the board a written statement of intent to pay into the fund an amount equal to the amount the member would have paid if the member had remained on active status in the department during the period of the member's absence while in the uniformed service.

(c) The member shall make the payment described by Subsection (b) of this section in full within a period after the member's return that is equal to three times the amount of time the member was absent, except that the maximum period for payment may not exceed five years.

(d) If the member does not comply with Subsections (b) and (c) of this section, the member loses all credit toward the member's years of service for the length of time the member was engaged in active service in any uniformed service.

(e) The amount of credit purchased under this section may not exceed the length of the active service in a uniformed service required to be credited by law.

(f) If the member complies with this section and makes all required payments, a municipality to which this Act applies shall make payment to the fund in an amount equal to the amount the municipality would have paid if the member had remained on active status in the department during the member's absence while in the uniformed service.

Sec. 4.03. RIGHTS OF BENEFICIARIES AND MEMBERS; ASSOCIATION. (a) Beneficiaries and members of the fund are entitled to all rights otherwise provided to the beneficiaries or members under any state or federal statute.

(b) This fund is intended to be a voluntary employee's beneficiary association as described by Section 501(c), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)), and the board has

the discretion to take any action necessary to ensure that the fund is classified as such.

ARTICLE 5. RETIREMENT HEALTH BENEFITS

Sec. 5.01. RETIREMENT HEALTH BENEFITS. (a) A person is eligible to receive health and medical benefits under this Act in accordance with the provisions of the retiree health plan in effect, except as otherwise provided by this Act.

(b) Health and medical benefits shall be provided by the fund to persons who are eligible to receive them under Subsection (a) of this section, in accordance with the provisions of the retiree health plan in effect, except as otherwise provided by this Act.

(c) The expiration of the terms, or the termination, of the collective bargaining agreements or the master contract document has no effect on the retiree health plan or the benefits provided under this Act.

(d) The board as it considers appropriate may modify the retiree health plan if the modifications adopted at any regular or special meeting of the board do not, in the aggregate, increase the fund's total actuarial unfunded liability, as determined by the actuary. The board has exclusive authority to modify the retiree health plan.

(e) The board may discontinue benefits under this section for any person who does not make the contributions required by Section 4.02 of this Act.

(f) On January 1, 2008, the maximum deductible for each individual in a calendar year as set out in the retiree health plan increases from $100 or $200, as applicable, to $500, and the maximum deductible for each family in a calendar year as set out in the retiree health plan increases from $200 or $400, as applicable, to $1,000.

(g) The maximum out-of-pocket, including deductible, payment for each individual for each of the following calendar years as set out in the retiree health plan increases as follows:

(1) on January 1, 2008, from $600 or $700, as applicable, to $1,500;

(2) on January 1, 2009, from $1,500 to $1,600;

(3) on January 1, 2010, from $1,600 to $1,700;

(4) on January 1, 2011, from $1,700 to $1,800; and

(5) on January 1, 2012, from $1,800 to $1,900.

(h) Commencing January 1, 2013, on January 1 of each year the

board shall increase the amount of the maximum deductible and out-of-pocket payments established under Subsections (f) and (g) of this section by a percentage equal to the then most recently published annual percentage increase in health care costs as set out in a published index selected by the actuary that reflects annual changes in health care costs. The annual percentage increase provided for by this subsection may not exceed eight percent.

ARTICLE 6. INVESTMENT AND FINANCIAL PROVISIONS

Sec. 6.01. Repealed by Acts 2007, 80th Leg., R.S., Ch. 1415, Sec. 19, eff. October 1, 2007.

Sec. 6.02. ACCOUNTS AND FINANCIAL REPORTS. (a) Accounts of the fund shall be kept as ordered by the board.

(b) The board shall require that monthly financial reports showing all fund receipts and disbursements be prepared and submitted to the board.

Sec. 6.03. RESERVE FUNDS. (a) The board shall determine a reasonably safe amount of surplus necessary to defray reasonable expenses of the fund.

(b) All other assets shall be designated as reserve funds.

(c) Only the board may invest and manage the reserve funds. The reserve funds must be invested and managed for the sole benefit of the beneficiaries.

Sec. 6.04. INVESTMENT POWERS OF BOARD. (a) The board shall invest the reserve funds in a manner that a prudent investor would invest the funds, considering the purposes, terms, distribution requirements, and other circumstances of an enterprise with a similar character and similar aims.

(b) The board shall diversify the investment of the reserve funds to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so. In determining whether the board has exercised prudence concerning an investment decision, the investment of all assets of the funds, rather than the prudence of a single investment of the funds, shall be considered.

(c) The board may directly manage investments of the reserve funds or may choose to contract for professional management services. If the funds own real estate, the board may, at its discretion, establish an organization described by Section 501(c)(2) or 501(c)(25), Internal Revenue Code of 1986, as amended, to hold title to the real estate.

(d) The board has final responsibility for the investment of the

reserve funds. The board may purchase securities or engage in limited partnerships or make other investments not specifically provided by this Act and has the authority to exercise discretion in determining the nature, type, quality, and size of any investment consistent with the investment policies it establishes.

Sec. 6.05. PROFESSIONAL CONSULTANTS. (a) The board may contract for professional investment management services, financial consultants, independent auditors, third-party administrators, preferred providers, health maintenance organizations, attorneys, and actuaries. Only the board may enter into those contracts. The board may establish a reasonable fee for compensation under those contracts.

(b) The board may designate its own custodian or master custodian to perform the customary duties involving the safekeeping of the assets and the execution of transactions of either domestic or foreign securities. The board may engage in a securities lending program consistent with the benefits payable to beneficiaries.

Sec. 6.06. INVESTMENT CONSULTANT QUALIFICATIONS. In appointing investment consultants, the board shall require that the investment consultant be:

(1) registered under the Investment Advisors Act of 1940 (15 U.S.C. Section 80b-1 et seq.), as amended;

(2) a bank as defined by that Act; or

(3) an insurance company qualified to perform investment services under the law of more than one state.

ARTICLE 7. STANDARDS OF CONDUCT AND FINANCIAL DISCLOSURE REQUIREMENTS

Sec. 7.01. ETHICS POLICY. (a) A trustee, the executive director, or any employee of the fund may not:

(1) buy, sell, or exchange any property to or from the fund;

(2) deal with the assets of the fund in the person's own interest or for the person's own account; or

(3) receive any consideration from any person dealing with the fund.

(b) To implement Subsection (a) of this section and to strengthen the faith and confidence of the members and beneficiaries of the fund, the board shall develop standards of conduct and financial disclosure requirements to be observed by each trustee and by the executive director in the performance of the board's and executive director's official duties.

ARTICLE 8. TRANSITION; EFFECTIVE DATE; EMERGENCY [REPEALED]

Secs. 8.01, 8.02. Repealed by Acts 1999, 76th Leg., ch. 52, Sec. 24(a), eff. Oct. 1, 1999.

Acts 1997, 75th Leg., ch. 1332, eff. Oct. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 52, Sec. 1 to 24, eff. Oct. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 1, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 2, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 3, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 4, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 5, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 6, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 7, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 8, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 9, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 10, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 11, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 12, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 13, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 14, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 15, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 16, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 17, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 18, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1415 (H.B. 2751), Sec. 19, eff. October 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 197, eff. September 1, 2011.

TITLE 112. RAILROADS
CHAPTER 8. RESTRICTIONS, DUTIES AND LIABILITIES
CHAPTER 11. RAILROAD COMMISSION OF TEXAS
CHAPTER 13. MISCELLANEOUS RAILROADS
CHAPTER 15. VIADUCTS
TITLE 116. ROADS, BRIDGES, AND FERRIES
CHAPTER 1A. TRAFFIC REGULATIONS
CHAPTER 6. PARTICULAR COUNTIES, LAW RELATING TO

Art. 6812b-1. COUNTIES OF 160,000 TO 185,000; COUNTY ENGINEER; DUTIES.

Sec. 1. The Commissioners Court of any county having a population of not less than 425,000 nor more than 500,000 may appoint a County Engineer, but the selection shall be controlled by considerations of skill and ability for the task. The engineer may be selected at any regular meeting of the commissioners court, or at any special meeting called for that purpose. The engineer selected shall be a Registered Professional Engineer in the State of Texas. The engineer shall hold his office for a period of two years, his term of office expiring concurrently with the terms of other county officers, and he may be removed at the pleasure of the commissioners court. The engineer shall receive a salary to be fixed by the commissioners court not to exceed the amount of the salary paid to the highest county official, to be paid out of the Road and Bridge Fund. The engineer, before entering upon the discharge of his duties, shall take the oath of office prescribed by law, and shall execute a bond in the sum of $15,000 with a good and sufficient surety or sureties thereon, payable to the county judge of the county and successors in office in trust, for the use and the benefit of the Road and Bridge Fund, of the county to be approved by the court, conditioned that such engineer will faithfully and efficiently discharge and perform all of the duties required of him by law and by

the orders of said commissioners court and shall faithfully and honestly and in due time account for all of the money, property and materials placed in his custody.

Sec. 2. CLASSIFICATION AND RECORD OF ROADS. (a) The county engineer shall, under the direction of the commissioners court, and as soon as practicable, classify all public roads in such county, and such classification when completed, and when approved by the court, shall become a part of the permanent records of roads and bridges of said county. He shall prepare a suitable map of which shall be delineated in appropriate colors the various roads which shall be designated as first, second, and third class roads. The map shall show to which place each road belongs and the nature of its construction. He shall make a complete indexed record of each county road in the county and all bridges. The records shall show when each county road was dedicated to the use of the public, a complete description as to location, measured length, width of right-of-way, character of construction, and terminals of same.

(b) Each road shall be indexed in the record by the same number and name as it is delineated on the map. As new roads are opened and improved, and the existing roads are widened or improved so as to change their class, such facts shall be added to the record of such roads in the "Records of Roads." Such information shall be made available to the public; provided, however that any omission in respect to the above requirement shall not invalidate any contract for the construction or repair of any road or highway in said county, and where such classification, records and indexes have heretofore been prepared there shall be no necessity to repeat the same in the absence of public necessity therefor, but same may be amended, added to or taken from as the facts of public need may demand.

Sec. 3. INVENTORY AND APPRAISAL OF EQUIPMENT; DISPOSAL AND PURCHASE. The county engineer shall at the end of every 12 months, acting in conjunction with each commissioner of the county, make a complete inventory and appraisement of all tools, machinery, equipment, materials, trucks, cars, and other property owned by the respective commissioners, and transmit the same in written form to the commissioners court and the county auditor, which report shall be kept as a permanent inventory record by the county auditor. When any of said tools, machinery, trucks, cars, and other property becomes unusable, the commissioners court shall enter an order upon the minutes of the court, stating such facts and reason for disposing of

such equipment and shall have authority to dispose of same as it deems best. When in its opinion it is necessary to purchase other machinery, supplies, tools, and other equipment and materials, the commissioners court shall enter an order on the minutes showing the necessity therefor. All equipment purchased or acquired as herein specified, shall be shown on the permanent inventory record.

Sec. 4. MASTER PLAN. The county engineer shall, when funds are available and when authorized by the commissioners court, to do so, make a careful and thorough study of all roads at that time opened and constructed with a view of determining what new roads and connections of roads should be opened and constructed, as well as what roads should be widened and improved. In making such survey, he should take into consideration the convenience of the traveling public, and especially the convenience of the citizenship of the county, so that each community a part of the county shall have easy and practical connection with the other and the state highway system of roads in the county, thereby furnishing to the citizenship of the county a convenient means of ingress and egress into and out of every city and town, as well as every other community in the county. The roads indicated in such surveys to be opened and constructed, as well as existing roads that are designated to be widened and improved, shall be located and designated with the view of giving the entire county an efficient road system. The commissioners court shall, in selecting roads or new roads, as well as the improvement of existing roads, look to the density of the population and amount of traffic that will normally flow over such roads; such survey when completed by the engineer, and when adopted by the commissioners court at a regular meeting thereof, shall be known as the Master Plan. When such Master Plan has been completed and adopted by the court as it is stipulated, the same shall be made into permanent record form and kept by the county engineer, and after such adoption, all new construction, widening and permanent improvement shall be done in accordance with such Master Plan and with the view of ultimately completing the same, both as to location and character of construction. The construction of said Master Plan shall proceed as the available funds of the county will permit, and each unit of such construction shall be made in accordance with such Master Plan. The order in which the roads or projects in the construction of said Master Plan are constructed shall be determined by the county engineer, with the approval of the commissioners court and in

determining the priority of roads or projects, the engineer and court shall take into consideration the necessity and convenience of the public and should give priority to those roads or projects that will result in the greatest service to the greatest number of the citizenship of the county, looking at all times to the entire county as a unit and wholly disregarding precinct lines.

Sec. 5. ADOPTION AND AMENDMENT OF MASTER PLAN. The commissioners court shall when said Master Plan is submitted to them for adoption, or if after adoption, an amendment or change thereto shall be deemed advisable, set a date at a regular meeting of commissioners court called for that purpose, and give public notice thereof at least two weeks in advance of such meeting and the purpose thereof, inviting the citizenship of the county to be present to protest any part of said Master Plan and also to make such suggestions as they deem pertinent in connection with same, or any change therein, but the decision of the commissioners court shall become and be final and conclusive as to said Master Plan, and no succeeding commissioners court shall have the power or authority to alter or change or amend any of the provisions thereof except by unanimous vote of the commissioners court. Provided, that where such Master Plan has once been adopted, there shall be no necessity to repeat the same in absence of public necessity thereof, for same may be amended and altered when public necessity therefor is shown, and after notice is given as herein above provided.

Sec. 6. SUBDIVISIONS. It shall be the duty of the county engineer and the commissioners court in each respective precinct to cause the Master Plan to be conformed to the needs and demands of existing and new subdivisions by constructing adequate highways leading from such subdivisions to the county seat. Provided that from and after the passage of this Act, the commissioners court, before approving the plan or plans of any subdivision lying outside the corporate limits of any city, town, or village, as required by Article 6626, Revised Civil Statutes of Texas, 1925, as amended, shall require such subdivision to enter into a written contract in agreement with the county, then such subdivider or dirt dealer will grade, and gravel all streets and provide all necessary drainage structures within such tract of land so subdivided. Such street improvements and drainage structures shall be in accordance with standard plans and specifications prepared by the county engineer. Such contracts shall be for the benefit of any person or persons,

firm or corporation who may thereafter acquire by purchase or otherwise any lot or lots in said addition or subdivision, and the faithful performance of said contract as to the initial improvements of said streets shall be deemed a part of the consideration paid for said lot and be read into the contract of sale of same, and such contract shall be enforceable at the instance, if necessary, of the owner or owners of any lot or lots in a given subdivision, suing singularly or as a group or class. After such initial street improvements have been completed in accordance with such plans, said streets then become and remain a part of the county road system and shall be maintained by the county unless and until included within the corporate limits of a city, town or village capable of maintaining its own streets.

Sec. 7. INSPECTIONS OF PLATS, SUBDIVISION PLANS AND LAND ENCOMPASSED; ADVICE TO COMMISSIONERS COURT AND DEVELOPERS. The county engineer when directed to do so by the commissioners court of the county, shall inspect all plats and plans of subdivisions to be recorded within said county, and make an on-site inspection of the land encompassed within said subdivision and advise the court as to the roads, drainage, sewage, and all aspects of said subdivision and terrain. The county engineer when and if required by the commissioners court, shall affix his signature to said plat along with the county judge and the commissioners court upon any plat approved and accepted by the commissioners court and filed in the county clerk's office. The county engineer will offer advice and suggestions to said developer and commissioners court in order to promote conformity with any and all rules and regulations for subdividing as laid out by the commissioners court.

Sec. 8. INSPECTION OF VARIOUS UTILITY DISTRICTS WITHIN COUNTY; MAP. The county engineer when directed by the commissioners court shall make such inspections of any and all utility districts, water districts, sewage districts, and any other type district formed within the confines of the county, to ascertain whether or not said districts meet the state and county requirements. The county engineer will keep a map setting out each and every type district created within the county and make it available for public use at any and all times required to do so.

Sec. 9. ASSISTANCE ON COUNTY FUNCTIONS. The county engineer when requested to do so by the commissioners court or by a commissioner shall assist said commissioner in connection with any

county road in said county, any drainage problem, public buildings, health and sanitation district, planning commissions, and any other function or service over which the commissioner or commissioners court might have jurisdiction.

Sec. 10. EMPLOYEES. The commissioners court shall employ all help necessary for the discharge of their public service or for the discharge of the duties of the county engineer. Such employees shall receive such compensation as may be fixed by the court, but in all such cases an order shall be passed and entered on the minutes of the court, showing in such case the public necessity for such employment and the amount of compensation to be paid each employee and the fund out of which it is to be paid.

Sec. 11. WORK RECORDS; DAILY TIME SHEET. The county engineer shall keep or cause to be kept, in duplicate, a daily time sheet which shall show the amount of time and the character of work performed and the place where the same is performed by himself and each person working for the county engineer, and such other records in connection therewith as the commissioners court and county auditor may require, one copy of which shall be furnished to the county auditor, and one copy shall be retained by the engineer.

Sec. 12. COUNTY COMMISSIONERS; DUTIES. This Act shall in no way diminish, alter or eliminate any of the duties presently handled by the commissioners court or by any individual commissioner. Each member of the commissioners court shall be and he is hereby required to devote all of his time unless prevented by illness to the duties of his office, and shall be in attendance at all sessions of the court.

Sec. 13. CUMULATIVE EFFECT; CONFLICT OR INCONSISTENCY. The provisions of this Act are and shall be held and construed to be cumulative of all general laws or special laws of this state on the subject treated in this Act when not in conflict or inconsistent herewith, but in case of such conflict or inconsistency in whole or in part, this Act shall control.

Sec. 14. SEVERABILITY. If any section, subdivision, paragraph, sentence, clause, or word in this Act shall be held to be unconstitutional, the remaining portions of same shall nevertheless be valid and it is declared that such remaining portions would have been included in this Act though the unconstitutional portion had been omitted.

Sec. 15. COUNTY ENGINEER; RELEASE FROM POSITION. If at any

time the commissioners court at any time feels that the county engineer position is no further of any necessity or benefit to the county, then said commissioners court has the authority to release said engineer without any obligation to fill said position or vacancy.

Acts 1971, 62nd Leg., p. 2483, ch. 809, eff. June 8, 1971. Sec. 1 amended by Acts 1981, 67th Leg., p. 593, ch. 237, Sec. 127, eff. Sept. 1, 1981; Sec. 1 amended by Acts 1991, 72nd Leg., ch. 597, Sec. 53, eff. Sept. 1, 1991; Sec. 1 amended by Acts 2001, 77th Leg., ch. 669, Sec. 171, eff. Sept. 1, 2001.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 198, eff. September 1, 2011.

TITLE 132. OCCUPATIONAL AND BUSINESS REGULATION
CHAPTER 4. GASOLINE AND PETROLEUM PRODUCTS

Art. 8601. SALE UNDER ANOTHER NAME. No person, firm or corporation, shall sell gasoline, benzine, naphtha, or other similar product of petroleum, capable of being used for illuminating, heating or power purposes, under any other than the true name of said products; and such petroleum products shall be subject to inspection by the proper authorities.

Acts 1919, p. 213.

Art. 8602. SHALL MARK CONTAINERS. No person, firm, association of persons, corporation or carrier selling or transporting for hire any gasoline, benzine, naphtha or other highly inflammable substance made from petroleum, shall fail to plainly mark the packages containing the same in accordance with the regulations of the Interstate Commerce Commission, unless such regulations should conflict with the provisions of this chapter.

Acts 1919, p. 213.

Art. 8603. LABELING RECEPTACLES OR RESERVOIRS OF PETROLEUM PRODUCTS. No person, firm, association of persons, corporation or

carrier selling or transporting any gasoline, benzine, naphtha or other similar product of petroleum, shall fail to truly label in large letters showing the name of such person, firm, association of persons, corporation or carrier on any tank car, barrel, cask, tank wagon, receptacle or reservoir in which any petroleum product shall be shipped or stored within this State, or from which sales or delivery of the same are to be made.

Acts 1919, p. 213. Amended by Acts 1933, 43rd Leg., p. 94, ch. 46, Sec. 1; Acts 1935, 44th Leg., p. 396, ch. 154, Sec. 1-a.

Art. 8604. MUST NOT FLASH. No person, firm, association of persons, or corporation shall sell or offer for sale any kerosene or distillate to be used for domestic cooking, illuminating, heating, or other domestic uses, having a flash point at a temperature below 112 degrees Fahrenheit, according to the United States official closed cup testing method of the United States Bureau of Mines.

Acts 1919, p. 213. Amended by Acts 1935, 44th Leg., p. 396, ch. 154, Sec. 1; Acts 1937, 45th Leg., p. 648, ch. 318, Sec. 1.

Art. 8605. STANDARD OF GASOLINE OR MOTOR FUEL. (a) No person, firm, association of persons, or corporation shall sell, offer for sale, or expose for sale, or possess or store with the intention to sell, as gasoline or motor fuel, any substance, liquid, or product of petroleum which falls below the standard of gasoline or motor fuel, the minimum requirement of which such standard shall be determined by the following distillation range:

1. When the thermometer reads 167 degrees Fahrenheit not less than ten (10) per cent shall be evaporated.

2. When the thermometer reads 284 degrees Fahrenheit not less than fifty (50) per cent shall be evaporated.

3. When the thermometer reads 392 degrees Fahrenheit not less than ninety (90) per cent shall be evaporated.

4. The end or dry point of distillation must not be over 437 degrees Fahrenheit.

5. The residue shall not exceed two (2) per cent.

6. Sulphur shall not exceed twenty one hundredths (0.20) per cent.

(b) Motor fuel or gasoline shall be volatile hydro-carbon fuel, free from water and suspended matter, and shall be practicable and/or suitable for use as fuel in internal combustion engines.

Acts 1919, p. 213. Amended by Acts 1933, 43rd Leg., p. 94, ch. 46, Sec. 2; Acts 1935, 44th Leg., p. 396, ch. 154, Sec. 2.

Art. 8606. INFERIOR MOTOR FUEL. (a) Liquids, substances, or products of petroleum used, or intended for use, as gasoline or motor fuel, not meeting the minimum requirements and specifications prescribed in Article 1105 hereof for gasoline or motor fuel, shall be known and designated as "Inferior Motor Fuel," and all pumps, receptacles, tanks or containers from which such inferior motor fuel may be sold, offered for sale, or exposed for sale, or in which such inferior motor fuel is stored, or transported with the intention to sell, shall be labeled, in plain, legible lettering in the English language in the full view of the public, with the words "Inferior Motor Fuel," which such lettering shall be of solid black type not less than two (2) inches in height with not less than one-half inch paint stripe of black oil paint on white oil paint background; and it is further provided that any person who shall sell or exchange any such motor fuel shall be required to plainly show on each and every invoice, manifest, ticket or bill of exchange that the commodity sold or exchanged is inferior motor fuel.

(b) No person, firm, association of persons or corporation shall sell or offer for sale as lubricating oil, any oil that has been rerun, refiltered, reclaimed or refined from crank case draining or any other oil that has been theretofore used for purposes of lubrication, unless the said oil is sold as and labeled "Reconditioned Motor Oil". The words "Reconditioned Motor Oil" shall be plainly and legibly printed on each container, which said lettering shall be imprinted in two (2) places on the container or label in a manner that said lettering will appear both on the front and back surface of the container when displayed to the public in sale displays, and which said lettering shall be in letters of not less than three-sixteenths (3/16) of an inch in height and not less than one-sixteenth (1/16) of an inch in the width of each line used to form said letters.

(c) No person, firm, association of persons or corporation shall

sell at retail, or offer for sale at retail, as gasoline or motor fuel to propel motor vehicles upon the roads, streets and highways of Texas, either alone or when blended with other products, any unrefined liquid, substance or residuum of natural gas formed in and extracted or expelled in its natural state from any pipe line or tank conveying or containing natural gas, unless the said liquid, substance or residuum sold at retail or offered for sale at retail in its unrefined state is labelled as "Drip Gasoline," and all pumps, receptacles, tanks or containers of any retail service station through which such drip gasoline may be sold or offered for sale to propel motor vehicles upon the roads, streets and highways of Texas, either alone or when blended with other products, shall be labelled in plain, legible lettering in full view of the public, with letters of solid black type not less than two (2) inches in height and one half (1/2) inch in width with the words "Drip Gasoline." Provided that nothing herein shall be construed as requiring the labelling of any derivative of natural gas which has been refined into an appropriate blending material free of dirt, oil and other suspended matter.

Acts 1919, p. 213. Amended by Acts 1933, 43rd Leg., p. 94, ch. 46, Sec. 3; Acts 1935, 44th Leg., p. 396, ch. 154, Sec. 3; Acts 1951, 52nd Leg., p. 148, ch. 88, Sec. 1; Acts 1955, 54th Leg., p. 1038, ch. 393, Sec. 1.

Art. 8607. TESTS OF PETROLEUM PRODUCTS. The apparatus and methods of conducting all tests and arriving at proper standards of gasoline and other products under this Act shall be those now or hereafter authorized and used by the U.S. Bureau of Mines.

Acts 1919, 36th Leg., p. 213, ch. 125.

Art. 8608. USING INCORRECT MEASURE. No person, firm, association of persons, corporation or carrier, shall use any scales, measure or measuring device in the handling or sale of petroleum products unless the same is true and accurate according to the standard of weights and measures under the laws of this State nor use any pumping device unless the same is correct according to such standard at three speeds, fast, slow and medium.

Acts 1919, 36th Leg., p. 213, ch. 125.

Art. 8609. BREAKING SEAL ON INCORRECT MEASURE. The inspector shall seal and forbid the use of any inaccurate measuring device until such time as the defect is corrected. The breaking of said official seal shall be prima facie evidence of a violation of this law and no person, firm, association of persons, corporation or carrier shall refuse to permit the inspector provided for by law to inspect and seal, if deemed necessary, any such measuring device, or to break the seal after being placed by such inspector.

Acts 1919, 36th Leg., p. 213, ch. 125, Sec. 9.

Art. 8610. HINDERING INSPECTOR. The Director of the Food and Drug Division of the State Board of Health, his inspectors, or any duly authorized representative appointed by the State Comptroller for that purpose, or any highway patrolman, or sheriff, or deputy sheriff, or any other peace officer shall have, in the performance of his duties under this law, the power to inspect any premises or place where petroleum products are made, prepared, stored, transported, sold or offered for sale or exchange, take samples of same, and test measuring devices. It shall be unlawful for any person to hinder or obstruct or refuse to permit said inspectors or any other persons duly authorized to perform said duties in the exercise of such powers.

Acts 1919, 36th Leg., p. 213, ch. 125, Sec. 10, 11. Amended by Acts 1933, 43rd Leg., p. 94, ch. 46, Sec. 4.

Art. 8611. PUNISHMENT. Any person who shall knowingly violate any of the provisions of Articles 8601 through and inclusive of Article 8610, Revised Statutes, shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than Twenty-five Dollars ($25) nor more than Two Hundred Dollars ($200).

Acts 1919, 36th Leg., p. 213, ch. 125. Amended by Acts 1935, 44th Leg., p. 396, ch. 154, Sec. 4; Acts 1987, 70th Leg., ch. 178, Sec. 2, eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.26, eff. April 1, 2009.

CHAPTER 5. COMMODITY EXCHANGES

Art. 8651. DEFINITIONS. That for the purpose of this Act, the term "Contract of Sale" shall be held to include sales, purchases, agreements of sale, agreements to sell, and agreements to purchase; that the word "person" wherever used in this Act shall be construed to import the plural or singular as the case demands, and shall include individuals, associations, partnerships, and corporations.

Acts 1925, 39th Leg., p. 38, ch. 15, Sec. 1.

Art. 8652. FUTURE CONTRACTS VALID. All contracts of sale for future delivery of cotton, grain, stocks, or other commodities, (1) made in accordance with the rules of any board of trade, exchange, or similar institution, and (2) actually executed on the floor of such board of trade, exchange, or similar institution, and performed or discharged according to the rules thereof, and (3) when such contracts of sale are placed with or through a regular member in good standing of a cotton exchange, grain exchange, board of trade, or similar institution, organized under the laws of the State of Texas or any other State, shall be and they hereby are declared to be valid and enforceable in the courts of this State, according to their terms; provided, that contracts of sale for future delivery of cotton in order to be valid and enforceable as provided herein, must not only conform to the requirements of clauses 1 and 2 of this section, but must also be made subject to the provisions of the United States Cotton Futures Act, approved August 11, 1916, and any amendments thereto; provided, further, that if this clause should for any reason be held inoperative, then contracts for the future delivery of cotton shall be valid and enforceable if they conform to the requirements of clauses 1 and 2 of this section; provided further, that all contracts as defined in Section 1 hereof where it is not contemplated by the parties thereto that there shall be an actual delivery of the commodities sold or bought shall be unlawful.

Acts 1925, 39th Leg., p. 38, ch. 15, Sec. 2.

Art. 8653. FUTURE CONTRACTS INVALID. Any contract of sale for future delivery of cotton, grain, stocks, or other commodities where it is not the bona fide intention of parties that the things mentioned therein are to be delivered but which is to be settled according to or upon the basis of the public market quotations or prices made on any board of trade, exchange, or other similar institution, without any actual bona fide execution and the carrying out of such contract upon the floor of such exchange, board of trade or similar institution, in accordance with the rules thereof, shall be null and void and unenforceable in any court of this State, and no action shall be maintainable thereon at the suit of any party.

Acts 1925, 39th Leg., p. 38, ch. 15, Sec. 3.

Art. 8654. BUCKET SHOP DEFINED AND PROHIBITED. A bucket shop is hereby defined to be and mean any place of business wherein are made contracts of the sort or character denounced by the preceding Section 3 of this Act, and the maintenance or operation of a bucket shop at any point in this State is prohibited.

Acts 1925, 39th Leg., p. 38, ch. 15, Sec. 4.

Art. 8655. SHALL FURNISH COPY OF CONTRACT. Every person shall furnish upon demand to any principal for whom such person has executed any contract for the future delivery of any cotton, grain, stocks, or other commodities, a written instrument setting forth the name and location of the exchange, board of trade, or similar institution, upon which such contract has been executed, the date of the execution, of the contract, and the name and address of the person with whom such contract was executed, and if such person shall refuse or neglect to furnish such statement upon reasonable demand, such refusal or neglect shall be prima facie evidence that such contract was an illegal contract within the provisions of Art. 658, and that the person who executed it was engaged in the maintenance and operation of a bucket shop, within the provisions of Article 661 hereof.

Acts 1925, 39th Leg., p. 38, ch. 15, Sec. 5.

Art. 8656. PENALTY. Any person, either as agent or principal, who enters into or assists in making any contracts of sale of the sort or character denounced in the preceding Art. 658 for the future delivery of cotton, grain, stocks, or other commodities, or who maintain a bucket shop, as that term is defined in Art. 659, shall be guilty of a felony, and upon conviction, shall be imprisoned in the penitentiary not exceeding two years.

Acts 1925, 39th Leg., p. 38, ch. 15, Sec. 6.

Art. 8657. PERMITTING EXCHANGES. There may be organized in any city, town, or municipality in the State of Texas, voluntary associations to be known as cotton exchanges, grain exchanges, boards of trade, or similar institutions, to receive and post quotations on cotton, grain, stocks, or other commodities, for the benefit of its members and other persons engaged in the production of cotton, grain, or other commodities. Such associations shall be composed of members and shall adopt a uniform set of rules and regulations not incompatible with the laws of Texas and of the United States. They shall open their books to inspection of all proper courts and officers when required so to do.

Acts 1925, 39th Leg., p. 38, ch. 15, Sec. 7.

Art. 8658. REPEALER. Articles 536 and 537 of Chapter 2, Title 11, and Articles 538 to 547 inclusive of Chapter 3, Title 11, of the Revised Penal Code of the State of Texas, of 1911, and all laws and parts of laws regulating or prohibiting dealings in future contracts, or in conflict or inconsistent herewith, be and the same are hereby repealed.

Acts 1925, 39th Leg., p. 38, ch. 15, Sec. 8.

Art. 8659. SEVERABILITY. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of

competent jurisdiction to be invalid, such judgment shall not effect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, or paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered; and any contract valid under and satisfying the remaining clauses, sentences, paragraphs, or parts of this Act shall be valid and enforceable in the courts of this State.

Acts 1925, 39th Leg., p. 38, ch. 15, Sec. 9.

CHAPTER 19. BOAT OR MOTOR MANUFACTURERS, DISTRIBUTORS, AND DEALERS

CHAPTER 20. MISCELLANEOUS

Art. 9010. PEDDLING OF PRINTED MATTER BY DEAF OR MUTE PERSONS. It shall be unlawful for any person to peddle or use a finger alphabet card or other printed matter stating in effect that the person is deaf and/or mute, in a manner calculated to play upon the sympathy of another in the solicitation of a contribution or donation. Any person violating any provision hereof shall be deemed guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than sixty (60) days or by a fine of not less than Ten Dollars ($10) nor more than Fifty Dollars ($50), or by both imprisonment and fine.

Acts 1959, 56th Leg., p. 1066, ch. 487, Sec. 1.

Art. 9030. EXCURSION TRAIN OPERATORS; CERTIFICATION; LIMITATION OF LIABILITY.

Sec. 1. CERTIFICATION. (a) A person may apply to the comptroller for certification as an operator of an excursion train. The comptroller shall certify an applicant if the comptroller determines that the applicant will operate a passenger train that:

(1) is primarily used for tourism or public service; and

(2) leads to the promotion of the tourist industry in Texas.

(b) The comptroller may not certify a person under Subsection (a) of this section unless the person files with the comptroller evidence of insurance providing coverage for liability resulting from injury to persons or damages to property in the amount of at least $5,000,000 for the operation of the train.

(c) The comptroller may not certify an applicant under Subsection (a) of this section if the applicant or any person that owns an interest in the applicant also owns or operates a regularly scheduled passenger train service with interstate connections.

Sec. 2. LIMITATION OF LIABILITY. (a) A person that is certified as an operator of an excursion train under Section 1(a) of this Act and maintains insurance in the minimum amount required under Section 1(b) of this Act is not liable for injury or damages over $5,000,000 resulting from a single occurrence.

(b) The limitation of liability under Subsection (a) of this section applies to the person certified as an operator under Section 1(a) of this Act, the owner of equipment used by the excursion train, the owner of track used by the excursion train, and the host carrier.

(c) The limitation of liability under Subsection (a) of this section does not apply if:

(1) the injury or damages result from intentional, malicious, or grossly negligent conduct; or

(2) at the time of the injury or damages the operator of the excursion train:

(A) failed to maintain insurance as required under Section 1(b) of this Act; or

(B) failed to comply with Section 5 of this Act.

Sec. 3. APPLICATION. An application made under Section 1 of this Act must include:

(1) the name and address of each person who owns an interest of at least 10 percent in the applicant;

(2) an address in this state at which the excursion train is based;

(3) an operations plan including the route to be used and a schedule of operations and stops along the route; and

(4) evidence of insurance in an amount that meets the requirements of Section 1(b) of this Act.

Sec. 4. NOTICE TO PASSENGERS. The operator of an excursion train that is certified under Section 1(a) of this Act shall:

(1) issue each passenger a ticket with the following statement in 12-point boldface type: "THE OPERATOR OF THIS TRAIN IS NOT LIABLE FOR PERSONAL INJURY OR WRONGFUL DEATH IN AN AMOUNT IN EXCESS OF $5,000,000"; and

(2) post notice near a passenger boarding area containing the same statement required in Subdivision (1) of this section in letters

that are at least two inches high.

Sec. 5. RESTRICTIONS. The operator of an excursion train that is certified under Section 1(a) of this Act may not carry:

(1) freight other than the personal luggage of the passengers or crew or supplies and equipment necessary to serve the needs of the passengers and crew;

(2) passengers who are commuting to work; or

(3) passengers who are traveling to their final destination solely for business or commercial purposes.

Acts 1995, 74th Leg., ch. 910, eff. Sept. 1, 1995.