

Chapter 1138

H.B. No. 2763

1 AN ACT
2 relating to the police pension fund in certain municipalities.
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
4 SECTION 1. Section 1.04, Chapter 325 (H.B. 2259), Acts of
5 the 75th Legislature, Regular Session, 1997 (Article 6243p,
6 Vernon's Texas Civil Statutes), is amended by adding Subdivisions
7 (1-a), (1-b), (6-a), (8), (9), and (10) to read as follows:
8 (1-a) "Actuarial experience study" has the meaning
9 assigned by Section 802.1014, Government Code.
10 (1-b) "Actuarially determined contribution rate"
11 means the contribution rate, expressed as a percentage of payroll
12 or compensation, actuarially determined necessary to:
13 (A) fund the normal cost of the pension fund, the
14 costs of administering the fund, and the unfunded actuarial
15 amortization amount of the fund for the current plan year; and
16 (B) maintain a closed amortization period that
17 does not exceed 30 years.
18 (6-a) "Normal cost" means the actuarially determined
19 amount necessary to fully fund accrued pension benefits under the
20 pension fund allocated to the current plan year.
21 (8) "Plan year" means the 12-month period beginning
22 January 1 and ending on the following December 31.
23 (9) "Trustee" means a member of the board of trustees.
24 (10) "Unfunded actuarial amortization amount" means

1 the actuarially determined amount required to pay off the fund's
2 unfunded actuarial accrued liability layers over a closed 30-year
3 amortization period. The initial layer is equal to the unfunded
4 actuarial accrued liability of the fund in the plan year beginning
5 January 1, 2019. For each subsequent plan year, the unfunded
6 actuarial accrued liability layer is equal to the unanticipated
7 change in the unfunded actuarial accrued liability of the fund in
8 that plan year over the expected unfunded actuarial accrued
9 liability included in the preceding plan year's actuarial
10 valuation.

11 SECTION 2. Sections 2.01 and 2.02, Chapter 325 (H.B. 2259),
12 Acts of the 75th Legislature, Regular Session, 1997 (Article 6243p,
13 Vernon's Texas Civil Statutes), are amended to read as follows:

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

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

1 follows:

2 (1) the president of the municipality's police
3 association or the president's designee, to serve during the
4 president's term of office [~~, except as provided by Subsection (b)~~
5 ~~of this section~~];

6 (2) two trustees [~~one municipal financial staff~~
7 ~~employee~~] designated by the city manager, to serve at the pleasure
8 of the city manager;

9 (3) two trustees [~~one legally qualified voter~~]
10 designated by the [~~mayor, to serve a two-year term~~];

11 [~~(4) one legally qualified voter designated by the~~]
12 city council, each to serve a staggered three-year [~~two-year~~] term;
13 and

14 (4) three trustees [~~(5) three members of the fund~~]
15 elected by the members of the fund, each to serve a staggered
16 three-year term.

17 (b) [~~If the president of the municipality's police~~
18 ~~association is prevented by the constitution or bylaws of the~~
19 ~~association from serving as a member of the board of trustees or if~~
20 ~~the president is not a member of the fund, the member of the fund who~~
21 ~~holds the next highest ranking office in the association serves on~~
22 ~~the board in place of the president of the association for the term~~
23 ~~of the officer's office in the association.~~

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

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

5 SECTION 3. Article 2, Chapter 325 (H.B. 2259), Acts of the
6 75th Legislature, Regular Session, 1997 (Article 6243p, Vernon's
7 Texas Civil Statutes), is amended by adding Section 2.021 to read as
8 follows:

9 Sec. 2.021. QUALIFICATIONS OF TRUSTEES. (a) To be
10 designated or elected a trustee under Section 2.02 of this Act, a
11 person must have:

12 (1) demonstrated financial, accounting, business,
13 investment, budgeting, or actuarial experience;

14 (2) a bachelor's degree from an accredited institution
15 of higher education; or

16 (3) been vetted to verify that the person is capable of
17 performing the duties and responsibilities of a trustee under this
18 Act and determined qualified for designation or election, as
19 appropriate, to the board by:

20 (A) the trustee serving on the board under
21 Section 2.02(a)(1) of this Act; and

22 (B) a trustee designated by the city manager
23 under Section 2.02(a)(2) of this Act.

24 (b) A person is presumed to have demonstrated the expertise
25 described by Subsection (a)(1) of this section if the person has at
26 least five years of full-time employment experience working in a
27 field described by that subdivision.

1 (c) A person is not required to reside in the municipality
2 to be designated or elected a trustee under Section 2.02 of this
3 Act.

4 SECTION 4. Section 2.03, Chapter 325 (H.B. 2259), Acts of
5 the 75th Legislature, Regular Session, 1997 (Article 6243p,
6 Vernon's Texas Civil Statutes), is amended to read as follows:

7 Sec. 2.03. ELECTED TRUSTEES. The board shall provide by
8 rule for the procedure for electing trustees described by Section
9 2.02(a)(4) [~~2.02(a)(5)~~] of this Act.

10 SECTION 5. Article 2, Chapter 325 (H.B. 2259), Acts of the
11 75th Legislature, Regular Session, 1997 (Article 6243p, Vernon's
12 Texas Civil Statutes), is amended by adding Section 2.035 to read as
13 follows:

14 Sec. 2.035. TRUSTEE TRAINING. (a) A person who is
15 appointed or elected to the board of trustees and qualifies for
16 office as a trustee shall complete a training program that complies
17 with this section.

18 (b) The training program must provide the trustee with
19 information regarding:

20 (1) the law governing the pension fund's operations;

21 (2) the programs, functions, rules, and budget of the
22 fund;

23 (3) the scope of and limitations on the rulemaking
24 authority of the board;

25 (4) the results of the most recent actuarial valuation
26 of the fund; and

27 (5) the requirements of:

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

4 (B) other laws applicable to a trustee in
5 performing the trustee's duties, including the board's fiduciary
6 duty to hold and administer the assets of the fund for the exclusive
7 benefit of members and their beneficiaries under Section 802.203,
8 Government Code, Section 67(f), Article XVI, Texas Constitution,
9 and any other applicable law.

10 SECTION 6. Sections 2.09(a), (b), and (c), Chapter 325
11 (H.B. 2259), Acts of the 75th Legislature, Regular Session, 1997
12 (Article 6243p, Vernon's Texas Civil Statutes), are amended to read
13 as follows:

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

1 subsection.

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

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

18 SECTION 7. Article 2, Chapter 325 (H.B. 2259), Acts of the
 19 75th Legislature, Regular Session, 1997 (Article 6243p, Vernon's
 20 Texas Civil Statutes), is amended by adding Sections 2.10, 2.11,
 21 and 2.12 to read as follows:

22 Sec. 2.10. ACTION INCREASING AMORTIZATION PERIOD.
 23 Notwithstanding any other provision of this Act, the rate of
 24 contributions to the pension fund may not be reduced or eliminated,
 25 a new monetary benefit payable by the pension fund may not be
 26 established, and the amount of a monetary benefit from the fund may
 27 not be increased, if, as a result of the particular action, the

1 time, as determined by an actuarial valuation, required to amortize
2 the unfunded actuarial liabilities of the pension fund would be
3 increased to a period that exceeds 25 years.

4 Sec. 2.11. ACTUARIAL VALUATIONS. (a) The assumptions and
5 methods adopted by the board and used to prepare an actuarial
6 valuation of the pension fund's assets and liabilities must be
7 consistent with generally accepted actuarial standards.

8 (b) Any assumed rate of return adopted by the board under
9 this Act must be reviewed as part of each actuarial valuation
10 conducted on or after January 1, 2020.

11 Sec. 2.12. INVESTMENT RETURN ASSUMPTIONS; ACTUARIAL
12 EXPERIENCE STUDY REQUIRED. (a) Except as provided by Section
13 67(f)(3), Article XVI, Texas Constitution, and notwithstanding
14 Section 11.01 of this Act, the board shall adopt an assumed rate of
15 return of seven percent to be used in the preparation of any
16 actuarial valuation conducted on or after September 1, 2019, and
17 before January 1, 2020.

18 (b) This section expires January 2, 2020.

19 SECTION 8. Sections 6.01, 6.03, and 6.04, Chapter 325 (H.B.
20 2259), Acts of the 75th Legislature, Regular Session, 1997 (Article
21 6243p, Vernon's Texas Civil Statutes), are amended to read as
22 follows:

23 Sec. 6.01. CONTRIBUTION OF MEMBERS AND PARTICIPATION IN
24 FUND; WAGE DEDUCTIONS. Subject to modification under Section 11.01
25 of this Act, each [Each] member shall make contributions to the
26 fund, [~~except in a time of national emergency,~~] and the
27 municipality is authorized to deduct 12 [~~a sum of not less than one~~

1 ~~percent and not more than 10~~] percent of the member's monthly wages
2 as contributions to the fund for service rendered after August 31,
3 2019. [~~The board shall determine the percentage deducted from~~
4 ~~monthly wages, as provided by Section 2.01 of this Act, within the~~
5 ~~minimum and maximum deductions provided by this section or as~~
6 ~~otherwise provided by Section 11.01 of this Act.~~]

7 Sec. 6.03. CONTRIBUTIONS BY MUNICIPALITY. (a) Subject to
8 modification under Section 11.01 of this Act and not later than the
9 15th business day after the first day of the municipality's fiscal
10 year, the [The] municipality[~~, acting under the advice of the~~
11 ~~actuary for the fund,~~] shall contribute to the fund 18 percent
12 [~~contributions expressed as a percentage~~] of payroll based on
13 authorized positions, as determined by the municipality [~~or~~
14 ~~compensation for each member, in such amounts and at such times as~~
15 ~~are required to pay the municipality's normal cost and interest on~~
16 ~~any unfunded actuarial requirement at the rate of interest assumed~~
17 ~~in the actuarial valuation. The municipality shall also include in~~
18 ~~the contribution to the fund sufficient money to pay the costs of~~
19 ~~administration of the fund, including the costs of periodic~~
20 ~~actuarial evaluations and annual statements to the members of the~~
21 ~~fund~~].

22 (b) Not later than December 31 of the year following the
23 year in which the municipality makes a contribution under
24 Subsection (a) of this section, the municipality shall:

25 (1) calculate the difference, if any, between the
26 amount of the municipality's actual payroll for the applicable
27 fiscal year and the amount of payroll on which its contribution

1 under Subsection (a) of this section was based; and

2 (2) contribute to the fund an amount equal to the
3 municipality's applicable contribution rate multiplied by the
4 amount of the difference calculated under Subdivision (1) of this
5 subsection.

6 Sec. 6.04. MUNICIPALITY'S LIABILITY. (a) Except as
7 provided by this section [~~Notwithstanding any other provision of~~
8 ~~this Act~~], the municipality may not be held liable or responsible
9 for any claim or asserted claim for benefits under the fund, but all
10 claims shall be paid from the money for which provisions have been
11 made under the terms of the plan and fund.

12 (b) The municipality shall pay the pension fund, in the
13 manner provided by Subsection (d) of this section, money in an
14 amount sufficient to offset any negative financial impact to the
15 fund, as determined by the actuary for the fund, caused by a
16 unilateral action taken by the municipality, including a reduction
17 by the municipality in the number of the municipality's police
18 officers.

19 (c) The actuary for the fund, as part of the actuary's
20 actuarial valuation of the fund, shall annually determine whether a
21 reduction in the number of municipal police officers by a
22 municipality had a negative financial impact to the fund.

23 (d) If the actuary determines a negative financial impact to
24 the fund has occurred under this section, the municipality shall:

25 (1) provide additional funding to the fund in the time
26 frame prescribed for making contribution increases under Section
27 11.01(b-1) of this Act; and

1 (2) continue to provide the funding described by
2 Subdivision (1) of this subsection until the negative impact of the
3 action is eliminated as determined by the actuary for the fund.

4 SECTION 9. Section 11.01, Chapter 325 (H.B. 2259), Acts of
5 the 75th Legislature, Regular Session, 1997 (Article 6243p,
6 Vernon's Texas Civil Statutes), is amended to read as follows:

7 Sec. 11.01. MODIFICATION OF BENEFITS, MEMBERSHIP
8 QUALIFICATIONS, ELIGIBILITY REQUIREMENTS, AND CONTRIBUTIONS. (a)
9 Subject to Section 2.10 [~~Notwithstanding any other provision~~] of
10 this Act and except as otherwise provided by this section, the
11 board, with the approval of at least six [~~four~~] board members, may
12 modify:

13 (1) benefits provided by this Act, including the
14 multiplier by which a pension benefit amount provided under Article
15 7 of this Act is calculated, except that any increase in benefits is
16 subject to Subsection (b) of this section;

17 (2) future membership qualifications;

18 (3) eligibility requirements for pensions or
19 benefits, including the age at which a member is eligible to retire;

20 or

21 (4) subject to Subsection (b) of this section, the
22 contribution rates [~~percentage of wage deductions~~] provided by
23 Sections [~~Section~~] 6.01 and 6.03 of this Act [~~, except that any~~
24 ~~increase in wage deductions is subject to Subsection (b)(2) of this~~
25 ~~section~~].

26 (b) Notwithstanding any other provision of this Act, the
27 board of trustees may not modify the contribution rates expressly

1 provided by Sections 6.01 and 6.03 of this Act before January 1,
2 2025. If, on or after January 1, 2025, the fund's most recent
3 actuarial valuation recommends an actuarially determined
4 contribution rate that exceeds the aggregate contribution rates
5 provided by Sections 6.01 and 6.03 of this Act, as modified under
6 this section, if applicable, the board shall:

7 (1) calculate the difference between the actuarially
8 determined contribution rate and the aggregate contribution rates;
9 and

10 (2) by rule, increase the contribution rates
11 applicable under Sections 6.01 and 6.03 of this Act by 50 percent of
12 the difference calculated under Subdivision (1) of this subsection.

13 (b-1) An increase in contribution rates under Subsection
14 (b) of this section may not take effect before:

15 (1) the January 1 following the date on which the board
16 of trustees approved the applicable actuarial valuation, if the
17 approval occurred at least three months before the first day of the
18 municipality's fiscal year; or

19 (2) the first day of the municipality's fiscal year
20 that begins more than three months after the date the board approved
21 the applicable actuarial valuation, if the approval occurred less
22 than three months before the first day of the municipality's next
23 fiscal year. [~~Notwithstanding any other provision of this Act, the~~
24 board, with the approval of a majority of the members of the fund,
25 may increase either of the following:

26 [~~(1) benefits provided by this Act; or~~

27 [~~(2) the percentage of wage deductions provided by~~

1 ~~Section 6.01 of this Act, except that, if the actuary for the fund~~
2 ~~certifies that an increase is necessary to maintain an actuarially~~
3 ~~sound plan, the board may, with the approval of at least four board~~
4 ~~members, increase the percentage of wage deductions.]~~

5 (c) Notwithstanding any other provision of this Act, the
6 board, with the approval of at least five [~~four~~] board members, may
7 provide for refunds, in whole or in part, with or without interest,
8 of accumulated contributions made to the fund by members who leave
9 the municipality's service before qualifying for a pension.

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

18 SECTION 10. (a) In this section, "board of trustees" and
19 "pension fund" have the meanings assigned by Section 1.04, Chapter
20 325 (H.B. 2259), Acts of the 75th Legislature, Regular Session,
21 1997 (Article 6243p, Vernon's Texas Civil Statutes).

22 (b) As soon as practicable after the effective date of this
23 Act:

24 (1) the city manager and city council shall designate
25 trustees for the board of trustees in accordance with Sections
26 2.02(a)(2) and (3), Chapter 325 (H.B. 2259), Acts of the 75th
27 Legislature, Regular Session, 1997 (Article 6243p, Vernon's Texas

1 Civil Statutes), as amended by this Act, whose terms are to begin
2 November 1, 2019; and

3 (2) the members of the pension fund shall elect, in
4 accordance with a procedure adopted by the existing board of
5 trustees for that purpose, three trustees to the board of trustees
6 in accordance with Section 2.02(a)(4), Chapter 325 (H.B. 2259),
7 Acts of the 75th Legislature, Regular Session, 1997 (Article 6243p,
8 Vernon's Texas Civil Statutes), as amended by this Act, whose terms
9 are to begin November 1, 2019.

10 (c) Notwithstanding the terms stipulated by Sections
11 2.02(a)(2), (3), and (4), Chapter 325 (H.B. 2259), Acts of the 75th
12 Legislature, Regular Session, 1997 (Article 6243p, Vernon's Texas
13 Civil Statutes), as amended by this Act, as applicable:

14 (1) the city manager and the city council shall
15 designate one of the initial trustees appointed under Section
16 2.02(a)(2) or (3), Chapter 325 (H.B. 2259), Acts of the 75th
17 Legislature, Regular Session, 1997 (Article 6243p, Vernon's Texas
18 Civil Statutes), as amended by this Act, as applicable, to serve a
19 term of two years; and

20 (2) the existing board of trustees shall designate one
21 of the initial trustee positions elected under Section 2.02(a)(4),
22 Chapter 325 (H.B. 2259), Acts of the 75th Legislature, Regular
23 Session, 1997 (Article 6243p, Vernon's Texas Civil Statutes), as
24 amended by this Act, to serve a one-year term and another of the
25 initial trustee positions to serve a two-year term.

26 (d) Notwithstanding the term of a trustee serving on the
27 board of trustees immediately before the effective date of this

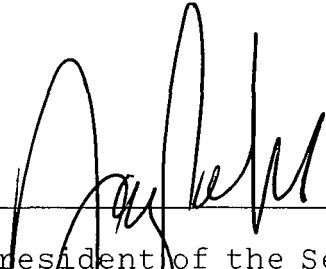
1 Act, effective October 31, 2019, the term of a trustee serving on
2 the board under Sections 2.02(a)(2), (3), (4), and (5), Chapter 325
3 (H.B. 2259), Acts of the 75th Legislature, Regular Session, 1997
4 (Article 6243p, Vernon's Texas Civil Statutes), as those
5 subdivisions existed immediately before the effective date of this
6 Act, expires.

7 SECTION 11. Sections 6.01 and 6.03, Chapter 325 (H.B.
8 2259), Acts of the 75th Legislature, Regular Session, 1997 (Article
9 6243p, Vernon's Texas Civil Statutes), as amended by this Act,
10 apply only to a contribution made on or after the effective date of
11 this Act.


12 SECTION 12. Notwithstanding Section 6.03, Chapter 325 (H.B.
13 2259), Acts of the 75th Legislature, Regular Session, 1997 (Article
14 6243p, Vernon's Texas Civil Statutes), as it existed immediately
15 before the effective date of this Act, a municipality subject to
16 that section is not required to pay interest on any unfunded
17 actuarial requirement that is outstanding under that section on the
18 effective date of this Act.

19 SECTION 13. This Act takes effect immediately if it
20 receives a vote of two-thirds of all the members elected to each
21 house, as provided by Section 39, Article III, Texas Constitution.
22 If this Act does not receive the vote necessary for immediate
23 effect, this Act takes effect September 1, 2019.

H.B. No. 2763



President of the Senate



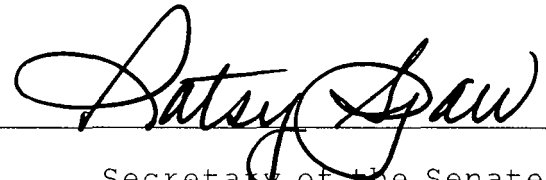
Speaker of the House

I certify that H.B. No. 2763 was passed by the House on May 2, 2019, by the following vote: Yeas 141, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2763 on May 23, 2019, by the following vote: Yeas 142, Nays 0, 1 present, not voting.



Chief Clerk of the House

I certify that H.B. No. 2763 was passed by the Senate, with amendments, on May 21, 2019, by the following vote: Yeas 31, Nays 0.



Secretary of the Senate

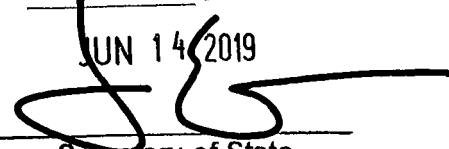
APPROVED: 6-11-2019

Date



Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
10:00 AM O'CLOCK

JUN 14 2019


Secretary of State