

Chapter 700

1 AN ACT
2 relating to participation in, contributions to, and the benefits
3 and administration of retirement systems for police officers in
4 certain municipalities.

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

6 SECTION 1. Section 6.01(f), Chapter 452 (S.B. 738), Acts of
7 the 72nd Legislature, Regular Session, 1991 (Article 6243n-1,
8 Vernon's Texas Civil Statutes), is amended to read as follows:

9 (f) For purposes of this section, compensation of each
10 noneligible member taken into account under this Act may not exceed
11 \$200,000 [~~\$150,000~~] per calendar year, indexed pursuant to Section
12 401(a)(17) of the Internal Revenue Code of 1986 (26 U.S.C. Section
13 401). The \$200,000 [~~\$150,000~~] limit does not apply to an eligible
14 member. For purposes of this subsection, an eligible member is any
15 individual who first became a member before January 1, 1996. For
16 purposes of this subsection, a noneligible member is any other
17 member.

18 SECTION 2. Section 8.01(a), Chapter 452 (S.B. 738), Acts of
19 the 72nd Legislature, Regular Session, 1991 (Article 6243n-1,
20 Vernon's Texas Civil Statutes), is amended to read as follows:

21 (a)(1) Deposits by the members to the police retirement
22 system shall be made at a rate of at least six percent of the basic
23 hourly earnings of each member. Deposits required to be made by
24 members shall be deducted from payroll. On recommendation of the

1 board, the Active--Contributory members may by a majority of those
2 voting increase the rate of member deposits above six percent to
3 whatever amount the board has recommended. If the deposit rate for
4 members has been increased to a rate above six percent, the rate may
5 be decreased if the board recommends the decrease, the board's
6 actuary approves the decrease, and a majority of the
7 Active--Contributory members voting on the matter approve the
8 decrease.

9 (2) The city shall contribute amounts equal to 18
10 percent of the basic hourly earnings of each member employed by the
11 city for all periods on or before September 30, 2010, subject to
12 additional amounts as provided by Subdivision (3) of this
13 subsection. The city shall contribute amounts equal to 19 percent
14 of the basic hourly earnings of each member employed by the city for
15 all periods after September 30, 2010, subject to additional amounts
16 as provided by Subdivision (3) of this subsection. The city council
17 may also authorize the city to make additional contributions to the
18 police retirement system in whatever amount the city council may
19 determine. Contributions by the city shall be made each pay period.

20 (3) The city shall contribute amounts in addition to
21 the amounts described by Subdivision (2) of this subsection as
22 required by Section 803.101(h), Government Code, to fund the
23 additional liabilities incurred by the police retirement system as
24 a result of participating in the proportionate retirement program.
25 The rate at which the city shall contribute additional amounts
26 under this subdivision is equal to 0.25 percent of the basic hourly
27 earnings of each member employed by the city for all periods from

1 January 4, 2009, through September 30, 2009. The rate at which the
2 city shall contribute additional amounts under this subdivision is
3 equal to 0.63 percent of the basic hourly earnings of each member
4 employed by the city for all periods after September 30, 2009,
5 subject to adjustment under Subdivision (4) of this subsection.

6 (4) The additional contribution rate under
7 Subdivision (3) of this subsection shall increase or decrease as
8 considered necessary by the actuary for the police retirement
9 system after each five-year period of participation by the system
10 in the proportionate retirement program in order to update the
11 amount necessary to fund the additional liabilities incurred by the
12 system as a result of participating in the proportionate retirement
13 program and of the consolidation of the city's public safety and
14 emergency management department with the police department on
15 January 4, 2009. The system's actuary shall perform an experience
16 study that shall be the basis for a contribution rate adjustment
17 under this subdivision. The effective date of the initial
18 contribution rate adjustment under this subdivision is October 1,
19 2015. Each later contribution rate adjustment under this
20 subdivision takes effect October 1 of every fifth year after the
21 effective date of the initial contribution rate adjustment. The
22 system's actuary shall present to the police retirement board the
23 experience study on which any contribution rate adjustment under
24 this subdivision is based not later than 45 days before the
25 effective date of the adjustment, and the city's actuary shall have
26 the opportunity to review and comment on the study. An adjustment
27 in the additional contribution rate under this subdivision may not

1 cause the additional contribution rate under Subdivision (3) of
2 this subsection to be less than zero.

3 SECTION 3. Section 11.01, Chapter 452 (S.B. 738), Acts of
4 the 72nd Legislature, Regular Session, 1991 (Article 6243n-1,
5 Vernon's Texas Civil Statutes), is amended to read as follows:

6 Sec. 11.01. LIMITATION ON PAYMENT OF BENEFITS. (a) If
7 the amount of any benefit payment otherwise due under this Act or
8 the total payments due under this Act and any other qualified
9 defined benefit plan maintained by this city would exceed the
10 limitations provided by Section 415(b) [415], Internal Revenue Code
11 of 1986, as amended, and the regulations adopted under that
12 section, the police retirement system shall reduce the amount of
13 the benefit paid under this Act as required to comply with that
14 section. If the annual additions that would otherwise be allocated
15 under this Act, or the total annual additions under this Act and any
16 other qualified plan maintained by the city would exceed the limits
17 under Section 415(c), Internal Revenue Code of 1986, the annual
18 additions under this Act shall be reduced to the extent required to
19 comply with Section 415(c), Internal Revenue Code of 1986.

20 (b) For purposes of determining if the benefits or annual
21 additions satisfy the limits provided by Subsection (a) of this
22 section, the compensation to be used is wages within the meaning of
23 Section 3401(a), Internal Revenue Code of 1986, plus amounts
24 deferred at the election of the member that would be included in
25 wages if not deferred under the rules of Section 402(e)(3), 125(a),
26 132(f)(4), 457(b), 402(h)(1)(B), or 402(k), Internal Revenue Code
27 of 1986. However, any rules that would limit the remuneration

1 included in wages based on the nature or location of the employment
2 or the services performed are disregarded for purposes of
3 determining compensation. In addition, any wages paid after a
4 severance from employment are not included as compensation for
5 purposes of this subsection unless the payment is for regular pay
6 as described in 26 C.F.R. Section 1.415(c)-2(e)(3)(ii) and is made
7 by the later of two and one-half months after the severance from
8 employment or the end of the calendar year that includes the date of
9 severance from employment. If excess annual additions are made to
10 any member's account despite the efforts of the board of trustees,
11 the amount shall be treated in accordance with 26 C.F.R. Section
12 1.402(g)-1(e)(2) or (3).

13 (c) Notwithstanding any other provision of this Act, the
14 applicable mortality table for purposes of adjusting a benefit due
15 to the limitations provided under Section 415(b)(2)(B) or (D),
16 Internal Revenue Code of 1986, is the table prescribed by Revenue
17 Ruling 2001-62.

18 SECTION 4. Sections 13.01(b)(2) and (3), Chapter 452 (S.B.
19 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article
20 6243n-1, Vernon's Texas Civil Statutes), are amended to read as
21 follows:

22 (2) "Eligible retirement plan" means[+
23 [~~A~~] an individual retirement account described
24 by Section 408(a) of the Internal Revenue Code of 1986 (26 U.S.C.
25 Section 408), an individual retirement annuity described in Section
26 408(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 408),
27 an annuity plan described in Section 403(a) of the Internal Revenue

1 Code of 1986 (26 U.S.C. Section 403), ~~[or]~~ a qualified trust
2 described in Section 401(a) of the Internal Revenue Code of 1986 (26
3 U.S.C. Section 401), an annuity contract described by Section
4 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403),
5 or an eligible plan under Section 457(b) of the Internal Revenue
6 Code of 1986 (26 U.S.C. Section 457), that is maintained by a state,
7 a political subdivision of a state, or any agency or
8 instrumentality of a state or political subdivision of a state that
9 agrees to separately account for amounts transferred from the plan,
10 provided that any of the vehicles described above ~~[that]~~ accepts
11 the distributee's eligible rollover distribution~~[, or~~

12 ~~[(B) an individual retirement account or~~
13 ~~individual retirement annuity, in the case of an eligible rollover~~
14 ~~distribution to a surviving spouse].~~ The term applies to a
15 distribution to a surviving spouse or to a spouse or former spouse
16 who is the alternate payee under a qualified domestic relations
17 order within the meaning of Chapter 804, Government Code. In the
18 case of an eligible rollover distribution to a non-spouse
19 beneficiary, an eligible retirement plan includes only an
20 individual retirement account or individual retirement annuity
21 described above.

22 (3) "Distributee" means a member or former member, the
23 member's or former member's surviving spouse, ~~[or]~~ the member's or
24 former member's spouse or former spouse who is the alternate payee
25 under a qualified domestic relations order, as prescribed by
26 Section 804.003, Government Code, or the member's or former
27 member's non-spouse beneficiary.

H.B. No. 2796

1 SECTION 5. This Act takes effect September 1, 2009.

David Dewhurst
President of the Senate

Jon Strom
Speaker of the House

I certify that H.B. No. 2796 was passed by the House on April 22, 2009, by the following vote: Yeas 149, Nays 0, 1 present, not voting.

Robert Haney
Chief Clerk of the House

I certify that H.B. No. 2796 was passed by the Senate on May 21, 2009, by the following vote: Yeas 31, Nays 0.

Daisy Saw
Secretary of the Senate

APPROVED: 19 JUN '09

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2:12 O'CLOCK

JUN 19 2009

Coly Hunter III