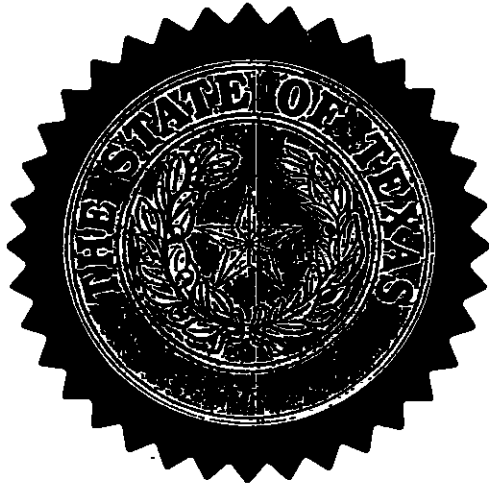


I am allowing House Bill No. 752, which deals with retirement benefits for Houston police officers, and Senate Bill No. 1696, which allows large cities in Texas to issue pension obligation bonds, to become law without my signature.

There are a number of reasons for my decision. First, House Bill No. 752, which codifies existing retirement benefits for Houston police officers, leaves me with serious concerns about the long-term solvency of this pension fund. Analysis by the State Pension Review Board indicates that the benefits codified by this bill would nearly triple the city of Houston contribution rate from 12.4 percent to 35.4 percent of payroll. Furthermore, the bill would increase the unfunded actuarial liability of the pension fund by 1,000 percent. The only positive aspect of House Bill No. 752 is that it changes the statutory amortization period of the fund, giving the city 10 additional years to fund pension liabilities. If not for this provision, I would have vetoed this bill because it is the product of a fiscally irresponsible contract that the city of Houston never should have executed.

Second, Senate Bill No. 1696 allows cities with populations of more than 100,000 to issue pension obligation bonds to pay for unfunded liabilities in municipal retirement funds. As long as they are used correctly, these bonds are a proven tool for addressing short-term funding concerns. I am concerned, however, that some cities may not use this tool properly or effectively.

Next session, I believe the Texas legislature should get out of the business of approving local retirement benefits for cities and municipalities. It is time that local officials take responsibility for their own programs and make fiscally responsible decisions.



IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 20th day of June, 2003.

*Rick Perry*  
\_\_\_\_\_  
RICK PERRY  
Governor of Texas

ATTESTED BY:

*Gwyn Shea*  
\_\_\_\_\_  
GWYN SHEA  
Secretary of State

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
3:30 P.M. O'CLOCK  
JUN 21 2003

## 1 AN ACT

2 relating to the administration of public retirement systems for  
3 police officers in certain municipalities.

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

5 SECTION 1. Section 1, Article 6243g-4, Revised Statutes, is  
6 amended to read as follows:

7 Sec. 1. PURPOSE. The purpose of this article is to restate  
8 and amend the provisions of former law creating and governing a  
9 police officers pension system in each city in this state having a  
10 population of 1.5 million or more, according to the most recent  
11 federal decennial census, and to reflect changes agreed to by the  
12 city and the board of trustees of the pension system under Section  
13 27 of this article. The pension system shall continue to operate  
14 regardless of whether the city's population falls below 1.5 million  
15 [permit the consolidation of the terms of certain pension plans].

16 SECTION 2. Section 2, Article 6243g-4, Revised Statutes, is  
17 amended by amending Subdivisions (1), (2), (7), (11), (14), and  
18 (23), adding Subdivisions (4-a), (14-a), and (22-a), and  
19 renumbering Subdivision (19) as Subdivision (17-a) to read as  
20 follows:

21 (1) "Active member" means a person employed as [~~an~~  
22 ~~employee who holds~~] a classified police officer by the [~~position in~~  
23 ~~a~~] police department of a city subject to this article, except for a  
24 person [~~an employee~~] who is a part-time, seasonal, or temporary

1 employee or a person who elected to remain a member of a pension  
2 system described by Chapter 88, Acts of the 77th Legislature,  
3 Regular Session, 2001 (Article 6243h, Vernon's Texas Civil  
4 Statutes). The term does not include a person who is a member of  
5 another pension system of the same city, except to the extent  
6 provided by Section 15(j) or 18 of this article.

7 (2) "Average total direct pay" means an amount  
8 determined by dividing the following sum by 12:

9 (A) the highest biweekly pay received by a member  
10 for any single pay period in the last 26 pay periods in which the  
11 member worked full-time, considering only items of total direct pay  
12 that are included in each paycheck, multiplied by 26; plus

13 (B) the total direct pay, excluding all items of  
14 the type included in Paragraph (A) received during the same last 26  
15 biweekly pay periods [~~a member's total direct pay for the 26 pay~~  
16 ~~periods immediately preceding the date of separation from service~~  
17 ~~or the date of entry into DROP, if earlier, divided by 12].~~

18 (4-a) "Catastrophic injury" means a sudden, violent,  
19 life-threatening, duty-related injury sustained by an active  
20 member that is due to an externally caused motor vehicle accident,  
21 gunshot wound, aggravated assault, or other external event or  
22 events and results, as supported by evidence, in one of the  
23 following conditions:

24 (A) loss of sight in one or both eyes;

25 (B) loss of one or both feet at or above the  
26 ankle;

27 (C) loss of one or both hands at or above the

1 wrist;

2 (D) injury to the spine that results in permanent  
 3 and complete paralysis of both arms, both legs, or one arm and one  
 4 leg; or

5 (E) an externally caused physical traumatic  
 6 injury to the brain rendering the member physically or mentally  
 7 unable to perform the member's duties as a police officer.

8 (7) "Dependent child" means a deceased member's  
 9 unmarried natural or adopted child who:

10 (A) has not attained age 18;

11 (B) has attained age 18 but not age 24 [~~22~~] and is  
 12 attending school on a full-time basis; or

13 (C) has attained age 18 and is permanently  
 14 disabled as the result of a disability that began before the child  
 15 attained age 18.

16 (11) "Former member" means a person who was once an  
 17 active member, vested or not, but who [~~has~~] terminated active  
 18 member status and received a refund of member contributions.

19 (14) "Member" means [~~includes~~] an active member,  
 20 inactive member, or retired member, as the context may require. The  
 21 term [~~but~~] does not include a former member.

22 (14-a) "Normal retirement age" means the earlier of:

23 (A) the age at which the member attains 20 years  
 24 of service; or

25 (B) the age at which the member first attains  
 26 both the age of at least 60 and at least 10 years of service.

27 (17-a) [~~(19)~~] "Retired member" means a member who has

1 separated from service and who is eligible to receive an immediate  
2 service or disability pension under this article.

3 (22-a) "Survivor" means a surviving spouse, a  
4 dependent child, or a dependent parent.

5 (23) "Total direct pay" means wages as defined by  
6 Section 3401(a) of the code, plus any amounts that are not included  
7 in gross income by reason of workers' compensation claims under  
8 Section 104(a)(1), 125, 402(g)(2), or 457 of the code, [and] member  
9 contributions picked up pursuant to Section 414(h)(2) of the code,  
10 and any portion of a motorcycle allowance that is not considered  
11 wages, less any pay received for overtime work. The term does not  
12 include nontaxable payments not expressly described by this  
13 subdivision. However, the compensation included in applying the  
14 limits under Sections 26(c) and (d) of this article shall include  
15 overtime pay and exclude any amount that is excluded from gross  
16 income under Section 104(a)(1) of the code and the portion of any  
17 motorcycle allowance that is excluded from gross income by any  
18 other provision of the code not mentioned in this subdivision.

19 SECTION 3. Section 3, Article 6243g-4, Revised Statutes, is  
20 amended by amending Subsections (a)-(d), (f), and (g) and adding  
21 Subsection (h) to read as follows:

22 (a) The board of trustees of the pension system that was  
23 created under Chapter 76, Acts of the 50th Legislature, Regular  
24 Session, 1947 (Article 6243g-1, Vernon's Texas Civil Statutes), and  
25 that operates under Section 67, Article XVI, Texas Constitution,  
26 continues to be responsible for the general administration,  
27 management, and operation of the pension system, including the

1 direction of investment and oversight of the fund's assets.

2 (b) The board is composed of seven members as follows:

3 (1) the administrative head of the city or the  
4 administrative head's authorized representative;

5 (2) three employees of the police department having  
6 membership in the pension system, ~~[and]~~ elected by the active,  
7 inactive, and retired members of the pension system ~~[in the manner~~  
8 ~~determined at a one-time election held for the pension system~~  
9 ~~before October 1, 1999]~~;

10 (3) two retired members~~[, elected in the manner~~  
11 ~~determined at a one-time election held for the pension system~~  
12 ~~before October 1, 1999,]~~ who are receiving pensions from the system  
13 and are not officers or employees of the city, elected by the  
14 active, inactive, and retired members of the pension system; and

15 (4) the treasurer of the city or the person  
16 discharging the duties of the city treasurer.

17 (c) The terms of office of the board members elected as  
18 described by Subsection (b)(2) of this section shall be three  
19 years, beginning on January 1 and ending on December 31, with one  
20 board member being elected every year at an election called by the  
21 board and held in December. If a vacancy occurs among the three  
22 elected active board members, the board shall hold an election  
23 within 60 days after the date the vacancy occurred. At that  
24 election, an active member shall be elected to serve for the  
25 remainder of the term of the vacant position or for a full term if  
26 the term of the board member that caused the vacancy would have  
27 ended in that year.

1 (d) The terms of office of the board members elected as  
2 described by Subsection (b)(3) of this section shall be three  
3 years, beginning on January 1 and ending on December 31. Beginning  
4 in 1999, and each third succeeding year, one board member shall be  
5 elected at an election called by the board and held in December.  
6 Beginning in 2000, and each third succeeding year, a second board  
7 member shall be elected at an election called by the board and held  
8 in December. If a vacancy occurs among the two elected retired  
9 members of the board, the board shall hold an election within 60  
10 days after the date the vacancy occurred. At that election, a  
11 retired member shall be elected to serve for the remainder of the  
12 term of the vacant position or for a full term if the term of the  
13 board member that caused the vacancy would have ended in that year.  
14 A board member who is a retired member and who was appointed to the  
15 board before January 1999 shall serve the remainder of the board  
16 member's term. On expiration of the appointed term, the appointed  
17 board member is eligible to run for the board position described by  
18 Subsection (b)(3) of this section in the same manner as any other  
19 retired member.

20 (f) An individual who is [~~If it is so determined at a~~  
21 ~~one-time election held for the pension system before October 1,~~  
22 ~~1999,~~] an officer or employee of any employee organization or  
23 retiree organization or an employee of the pension system is  
24 prohibited from being elected to the board, appointed to the board,  
25 or in any other way serving as [~~becoming~~] a member of the board.

26 (g) Each board member shall, within 30 days after taking  
27 office [~~the date of appointment or election~~], take an oath of

1 office;

2 (1) to diligently and honestly administer the affairs  
3 of the pension system by:

4 (A) being loyal exclusively to all members;

5 (B) being prudent in protecting and managing the  
6 trust's property;

7 (C) defending the trust's assets; and

8 (D) acting under the terms of the plan; and

9 (2) to not knowingly violate, or willingly permit to  
10 be violated, this article.

11 (h) Notwithstanding any other provision in this section, if  
12 a candidate for an elected trustee position is unopposed in an  
13 election, the election may not be held for that position. The board  
14 shall certify the candidate as elected to the board on the executive  
15 director's certification that the candidate is eligible to be a  
16 trustee under this section and is unopposed for election. The  
17 certified candidate shall take the oath of office as soon as  
18 practicable in January, after being declared elected in December.

19 SECTION 4. Section 4(a), Article 6243g-4, Revised Statutes,  
20 is amended to read as follows:

21 (a) Elected members of the board who are employees of the  
22 city's police department are entitled to leave from their employer  
23 to attend to the official business of the pension system and are not  
24 required to report to the city or any other governmental entity  
25 regarding travel or the official business of the pension system,  
26 except when on city business.

27 SECTION 5. Section 5, Article 6243g-4, Revised Statutes, is



1 amended by amending Subsection (d) and adding Subsection (b-1) to  
2 read as follows:

3 (b-1) The board may hire an executive director. The  
4 executive director, acting under the direction of the board, shall  
5 handle the operations of the plan and shall perform other duties as  
6 the board may assign. The executive director shall also serve as  
7 the plan administrator for purposes of complying with Subchapter A,  
8 Chapter 804, Government Code.

9 (d) The board may employ one or more actuaries, legal  
10 counsel, accountants, or other professionals [~~an actuary, legal~~  
11 ~~counsel, an accountant, or another professional~~] and pay the  
12 compensation for these services from the fund.

13 SECTION 6. Section 6, Article 6243g-4, Revised Statutes, is  
14 amended by adding Subsections (e-1), (g), and (h) and amending  
15 Subsection (f) to read as follows:

16 (e-1) The board may sue on behalf of the pension system in  
17 any court with proper subject matter jurisdiction regardless of  
18 location. The board has sole authority to litigate matters on  
19 behalf of the pension system.

20 (f) The board has full discretion and authority to  
21 administer the pension system, to construe and interpret this  
22 article, and to do all other acts necessary to carry out the purpose  
23 of this article in a manner and to the extent that the board  
24 considers expedient to administer this article for the greatest  
25 benefit of all members. All decisions of the board are final and  
26 binding on all affected parties.

27 (g) The board, if reasonably necessary in the course of

1 performing a board function, may subpoena a witness or the  
2 production of a book, record, or other document. The presiding  
3 officer of the board may issue, in the name of the board, a subpoena  
4 only if a majority of the board approves. The presiding officer of  
5 the board, or the presiding officer's designee, shall administer an  
6 oath to each witness. A peace officer shall serve a subpoena issued  
7 by the board. If the person to whom a subpoena is directed fails to  
8 comply, the board may bring suit to enforce the subpoena in a  
9 district court of the county in which the person resides or in the  
10 county in which the book, record, or other document is located. If  
11 the district court finds that good cause exists for issuance of the  
12 subpoena, the court shall order compliance. The district court may  
13 modify the requirements of a subpoena that the court finds are  
14 unreasonable. Failure to obey the order of the district court is  
15 punishable as contempt.

16 (h) The board is not subject to Title 6, Property Code.

17 SECTION 7. Sections 7(d) and (f), Article 6243g-4, Revised  
18 Statutes, are amended to read as follows:

19 (d) On the date the board makes a declaration under  
20 Subsection (c) of this section, the board shall call a special  
21 election to be held not earlier than the 20th or later than the 60th  
22 [~~30th~~] day after that date to fill the vacancy for the unexpired  
23 term of the person who was removed. The person who was removed is  
24 not eligible to run in the special election but is eligible to run  
25 in all subsequent board elections.

26 (f) The hearing must begin as soon as the hearing examiner  
27 can be scheduled but not later than the 60th day after the date the

1 board votes to remove the board member. In a hearing conducted  
2 under this subsection, the hearing examiner may issue subpoenas.  
3 The parties may agree to an expedited hearing procedure. Unless  
4 otherwise agreed by the parties, in an expedited procedure, the  
5 hearing examiner must issue a decision not later than the 10th day  
6 after the date the hearing ends. Unless operating under an  
7 expedited hearing procedure, the hearing examiner shall make a  
8 reasonable effort to issue a decision not later than the 30th day  
9 after the date the hearing ends. The hearing examiner's inability  
10 to meet the time requirements imposed by this subsection does not  
11 affect the hearing examiner's jurisdiction or final decision. The  
12 final decision of the hearing examiner may be either to remove the  
13 board member or not to remove the board member from the board. [~~A~~  
14 ~~decision may be made to remove the board member from the board only~~  
15 ~~if the hearing examiner determines that the board member violated~~  
16 ~~Subchapter A, Chapter 121, Property Code.~~] The hearing examiner's  
17 fees and expenses shall be paid by the pension system. The costs of  
18 a witness shall be paid by the party who calls the witness.

19 SECTION 8. Section 8(a), Article 6243g-4, Revised Statutes,  
20 is amended to read as follows:

21 (a) Each active member of the pension system shall pay into  
22 the system each month  $8 \frac{3}{4}$  percent of the member's total direct  
23 pay. The payments shall be deducted by the city from the salary of  
24 each active member each payroll period [~~monthly~~] and paid to the  
25 pension system. Except for the repayment of withdrawn  
26 contributions under Section 17(f) or 18(c)(3) of this article and  
27 rollovers permitted by Section 17(h) of this article, a person may

1 not be required or permitted to make any payments into the pension  
2 system after the person separates from service.

3 SECTION 9. The heading to Section 9, Article 6243g-4,  
4 Revised Statutes, is amended to read as follows:

5 Sec. 9. CONTRIBUTIONS [MONTHLY PAYMENT] BY THE CITY.

6 SECTION 10. Section 9(a), Article 6243g-4, Revised  
7 Statutes, is amended to read as follows:

8 (a) The city shall make substantially equal contributions  
9 to the fund as soon as administratively feasible after each payroll  
10 period. For each fiscal year ending after June 30, 2005, the city's  
11 minimum contribution shall be the greater of 16 percent of the  
12 members' total direct pay or the level percentage of salary payment  
13 required to amortize the unfunded actuarial liability over a  
14 constant period of 30 years computed on the basis of an acceptable  
15 actuarial reserve funding method approved by the board. However,  
16 for the fiscal year ending June 30, 2002, the city's contribution  
17 shall be \$32,645,000, for the fiscal year ending June 30, 2003, the  
18 city's contribution shall be \$34,645,000, for the fiscal year  
19 ending June 30, 2004, the city's contribution shall be \$36,645,000,  
20 and for the fiscal year ending June 30, 2005, the city's  
21 contribution shall be 16 percent of the members' total direct pay.  
22 ~~[For fiscal years ending before June 30, 2002, the city shall make~~  
23 ~~contributions to the fund after each payroll period in an amount~~  
24 ~~previously agreed to by the city and the board. For the fiscal year~~  
25 ~~ending June 30, 2002, the city's contribution rate shall be~~  
26 ~~composed of the normal cost plus the level percentage of salary~~  
27 ~~payment required to amortize the actuarial liability over a period~~

1 ~~of 40 years from January 1, 1983, computed on the basis of an~~  
2 ~~acceptable actuarial reserve funding method approved by the board.~~  
3 ~~For each fiscal year ending after June 30, 2002, the city's~~  
4 ~~contribution shall be the sum of (1) an amount computed in the~~  
5 ~~manner provided for the contribution for the fiscal year ending~~  
6 ~~June 30, 2002, plus (2) \$2 million multiplied by the number of~~  
7 ~~fiscal years that have ended since June 30, 2002, but not more than~~  
8 ~~16 percent of the aggregate total direct pay of all active members~~  
9 ~~for the fiscal year. If the amount described by (1) in the~~  
10 ~~preceding sentence is greater than 16 percent of the aggregate~~  
11 ~~total direct pay of all active members for the year, the amount~~  
12 ~~described by (1) shall be contributed.]~~

13 SECTION 11. Section 11(a), Article 6243g-4, Revised  
14 Statutes, is amended to read as follows:

15 (a) A member who returns to service after an interruption in  
16 service is entitled to credit for the previous service to the extent  
17 provided by Section 19 of this article. ~~[In addition, a member who~~  
18 ~~is retiring shall receive one-half day of service for each day for~~  
19 ~~which the city is required to make contributions with respect to the~~  
20 ~~member's unused sick leave, vacation pay, or accumulated overtime~~  
21 ~~under Section 9(b) of this article, except to the extent that the~~  
22 ~~member elects to have the amounts credited to the member's DROP~~  
23 ~~account. Under no circumstances may payments for the same days of~~  
24 ~~unused sick leave, vacation pay, or accumulated overtime be used to~~  
25 ~~both increase a member's service and credit the member's DROP~~  
26 ~~account.]~~

27 SECTION 12. Section 12, Article 6243g-4, Revised Statutes,

1 is amended by amending Subsections (a), (b), (d), (f), and (g) and  
2 adding Subsections (h) and (i) to read as follows:

3 (a) A member who separates from service after earning 20 or  
4 more years of service is eligible to receive a monthly service  
5 pension, beginning in the month of separation from service. A  
6 member who separates from service with the city after November 23,  
7 1998, after earning 10 or more but less than 20 years of service in  
8 any of the city's pension systems and who complies with all  
9 applicable requirements of Section 19 of this article is eligible  
10 to receive a monthly service pension, beginning in the month the  
11 individual attains 60 years of age. An individual may not receive a  
12 pension under this article while still an active member, except as  
13 provided by Subsection (f) of this section. All service pensions  
14 end with the month in which the retired member dies. The city shall  
15 supply all personnel, financial, and payroll records necessary to  
16 establish the member's eligibility for a benefit, the member's  
17 credited service, and the amount of the benefit. The city must  
18 provide those records in the format specified by the pension  
19 system.

20 (b) Except as otherwise provided by this section, the  
21 monthly service pension of a member that becomes due after May 1,  
22 2001 [~~who separates from service after November 23, 1998~~], is equal  
23 to 2.75 [~~2.5~~] percent of the member's average total direct pay or,  
24 if the member retired before November 24, 1998, 2.75 percent of the  
25 member's base salary, for each of the member's first 20 years of  
26 service, plus an additional two percent of the member's average  
27 total direct pay for each of the member's subsequent years of

1 service, computed to the nearest one-twelfth of a year. A member  
2 who separates from service after November 23, 1998, including a  
3 member who was a DROP participant, and begins to receive a monthly  
4 service pension shall also receive a one-time lump-sum payment of  
5 \$5,000 at the same time the first monthly pension payment is made.  
6 The lump-sum payment under this subsection is not available to a  
7 member who has previously received a \$5,000 payment under this  
8 section or Section 16 of this article.

9 (d) A retired member who receives a service pension under  
10 this article is entitled to receive an additional amount each month  
11 equal to \$150 [~~\$88.05~~], beginning on the later of the date the  
12 retired member's pension begins or the date the first monthly  
13 payment becomes due after June 18, 2001, and continuing until the  
14 end of the month in which the retired member dies. This amount is  
15 intended to defray the retired member's group medical insurance  
16 costs and will be paid directly by the fund to the retired member  
17 for the retired member's lifetime.

18 (f) Notwithstanding anything to the contrary in this  
19 article, an active or inactive member who is eligible to  
20 participate in the executive official pension plan established by  
21 Chapter 358, Acts of the 48th Legislature, Regular Session, 1943  
22 (Article 6243g, Vernon's Texas Civil Statutes), or a successor  
23 statute, may, while continuing employment with the police  
24 department, participate in the executive official pension plan and  
25 elect:

26 (1) if an active member:

27 (A) to begin receiving an immediate pension

1 benefit and be considered a retired member eligible for all rights  
2 and privileges afforded any other retired member under this  
3 article, if the member has 20 years or more of service and is  
4 eligible for retirement under this section except for the  
5 continuing employment; or

6 (B) to enter DROP if the member satisfies all  
7 requirements of this article for DROP membership; or

8 (2) if an inactive member, to begin receiving an  
9 immediate pension benefit equal to 2.75 [~~2-5~~] percent of the  
10 member's average total direct pay at the time the member became  
11 inactive for the member's first 20 years of service and be entitled  
12 to all rights and privileges afforded a retired member under this  
13 article.

14 (g) Notwithstanding anything to the contrary in this  
15 article, service pensions that began before May 1, 2001 [~~September~~  
16 ~~1, 1999~~], shall continue to be paid in accordance with applicable  
17 prior law, subject only to the adjustments that are specifically  
18 provided by this section.

19 (h) Average total direct pay for a member who retires after  
20 participating in a phase-down program in which the member receives  
21 a periodic payment that is generated from the member's accumulated  
22 sick time, vacation time, and overtime balances shall be based on  
23 the highest pay period, excluding any pay for overtime work, in the  
24 periods during which the member worked full-time before  
25 participating in the phase-down program.

26 (i) The computation of average total direct pay shall be  
27 made in accordance with procedures and policies adopted by the



1 board.

2 SECTION 13. Section 14, Article 6243g-4, Revised Statutes,  
3 is amended by amending Subsections (b)-(g), (j), and (l) and adding  
4 Subsections (f-1) and (m) to read as follows:

5 (b) An active member who has at least 20 years of service  
6 with the police department may file with the pension system an  
7 [~~irrevocable~~] election to participate in DROP and receive a DROP  
8 benefit instead of the standard form of pension provided by this  
9 article. The election may be made, under procedures established by  
10 the board, by an active member who has attained the required years  
11 of service. A DROP election that is made and accepted by the board  
12 may not be revoked before the member's separation from service.

13 (c) The monthly service pension and death benefits of an  
14 active member who becomes a DROP participant will be determined as  
15 if the active member had separated from service and begun receiving  
16 a pension on the effective date of the DROP election. The active  
17 member does not retire but does not accrue additional service  
18 credit beginning on the effective date of the election, and  
19 increases in pay that occur on or after that date may not be used in  
20 computing the active member's monthly service pension, except as  
21 provided by Subsection (1) of this section, but cost-of-living  
22 adjustments that occur on or after that date and that otherwise  
23 would be applicable to the pension will be made.

24 (d) The member's DROP benefit is determined as provided by  
25 this subsection and Subsection (e) of this section. Each month an  
26 amount equal to the monthly service pension the active member would  
27 have been entitled to receive if the active member had separated

1 from service on the effective date of entry into DROP, less any  
2 amount that is intended to help defray the active member's group  
3 medical insurance costs as described by Section 12(d) of this  
4 article, shall be credited to a notional DROP account for the active  
5 member, and each month an amount equal to the monthly contributions  
6 the active member makes to the fund on and after the effective date  
7 of entry into DROP also shall be credited to the same notional DROP  
8 account. In any year in which a 13th payment is made to retired  
9 members under Section 12(e) of this article, an amount equal to the  
10 amount of the 13th payment that would have been made to the DROP  
11 participant if the DROP participant had retired on the date of DROP  
12 entry will be credited to the DROP account. ~~[In addition, any  
13 amount that is contributed by the city under Section 9(b) of this  
14 article with respect to the active member's unused sick leave,  
15 vacation pay, or accumulated overtime, and that is not required to  
16 be used to provide 10 or 20 years of service to the member under  
17 Section 11 of this article or used to repay withdrawn contributions  
18 under Section 18(c) of this article shall be credited to the DROP  
19 account as of the end of the month in which it is contributed.]~~

20 (e) As of the end of each month an amount is credited to each  
21 active member's notional DROP account at the rate of one-twelfth of  
22 a hypothetical earnings rate on amounts in the account. The  
23 hypothetical earnings rate is determined for each calendar year  
24 based on the average of the aggregate annual rate of return on  
25 investments of the pension system for the five consecutive fiscal  
26 years ending June 30 preceding the calendar year to which the  
27 earnings rate applies. The rate may not be less than zero. ~~[The~~

1 ~~board may lower any future rate below the rate otherwise prescribed~~  
2 ~~by this subsection to the extent necessary to ensure that the DROP~~  
3 ~~does not adversely affect the financial condition of the fund.]~~

4       (f) At the time of a DROP participant's separation from  
5 service, the DROP participant or, if separation from service was  
6 due to the DROP participant's death, the person entitled to receive  
7 benefits under Sections 16 and 16A of this article shall be afforded  
8 a one-time election to revoke the DROP election and substitute  
9 either the annuity that would have been paid if the member had never  
10 elected DROP or an annuity and notional DROP account equal to the  
11 annuity and notional DROP account that would have been received if  
12 the member had entered DROP on a date elected by the member or  
13 survivor. The date elected by the member or survivor may not be  
14 earlier than the earliest date the member could have elected to  
15 enter DROP or later than the date of the member's death or other  
16 separation from service. The computation of the value of the  
17 annuity and DROP account of a member or survivor who makes a Back  
18 DROP election shall be subject to the policies and procedures  
19 adopted by the board. For purposes of this subsection, "Back DROP"  
20 means the option to make this one-time election [~~If a DROP~~  
21 ~~participant separates from service because of disability or death,~~  
22 ~~the member or the member's spouse or, if there is no eligible~~  
23 ~~spouse, any other person eligible to receive benefits under Section~~  
24 ~~16 of this article, as applicable, may either receive an amount~~  
25 ~~equal to the member's DROP account or revoke the member's DROP~~  
26 ~~election and elect to receive benefits as provided by this article~~  
27 ~~without regard to this section. A revocation and election under~~

1 ~~this subsection must be made at the time and in the manner provided~~  
2 ~~in a procedure that the board may adopt from time to time.~~  
3 ~~Alternatively, the retired member, a deceased member's spouse, or,~~  
4 ~~if there is no spouse, the person entitled to receive benefits under~~  
5 ~~Section 16 of this article may elect to receive a distribution that~~  
6 ~~is equal to the member's DROP account and benefits as described by~~  
7 ~~Subsection (c) of this section].~~

8 (f-1) If a DROP participant separates from service due to  
9 death and the person entitled to receive benefits under Sections 16  
10 and 16A of this article does not revoke the DROP election, the DROP  
11 benefit may be received in the form of an additional annuity over  
12 the life expectancy of the surviving spouse.

13 (g) In lieu of receiving a lump-sum DROP benefit on  
14 separation from service, a retired member who has been a DROP  
15 participant or, if separation from service was due to the DROP  
16 participant's death, the surviving spouse may leave the retired  
17 member's DROP account with the pension system, in which case  
18 interest will be credited to the DROP account in the manner  
19 described by Subsection (e) of this section [~~this subsection~~].  
20 [~~The interest credited for any month shall be at the applicable~~  
21 ~~annual interest rate as defined by Section 417(e)(3)(A)(ii)(II) of~~  
22 ~~the code and published by the Internal Revenue Service for June of~~  
23 ~~the year preceding the calendar year in which the interest is~~  
24 ~~credited.]~~

25 (j) A retired member who is a DROP participant, or a  
26 surviving spouse, may elect to receive distribution of the DROP  
27 account in a one-time lump-sum payment or in any other form of

1 distribution that is approved by the board and satisfies the  
2 requirements of Section 401(a)(9) of the code. [~~Distributions to a~~  
3 ~~deceased member's survivors, as described by Subsection (f) of this~~  
4 ~~section, shall be made in a lump sum as soon as administratively~~  
5 ~~feasible after the deceased member's death.~~]

6 (l) The DROP account of each DROP participant who was an  
7 active member on May 1, 2001, shall be recomputed and adjusted,  
8 effective on that date, to reflect the amount that would have been  
9 credited to the account if the member's pension had been computed  
10 based on 2.75 percent of the member's average total direct pay, or  
11 base pay if applicable, for each of the member's first 20 years of  
12 service. The DROP account adjustment shall also include the  
13 assumed earnings that would have been credited to the account if the  
14 2.75 percent multiplier for the first 20 years of service had been  
15 in effect from the time the member became a DROP participant [~~if~~  
16 ~~DROP causes any unanticipated actuarial costs, the board may take~~  
17 ~~action as necessary to mitigate the unanticipated actuarial cost,~~  
18 ~~including discontinuing acceptance of additional elections to~~  
19 ~~participate in the DROP, but the pension system shall continue to~~  
20 ~~administer DROP for the members participating before the date of~~  
21 ~~discontinuance of enrollment)].~~

22 (m) The DROP monthly service pension, as described by  
23 Subsection (c) of this section, of each DROP participant who  
24 retires after May 1, 2001, shall be recomputed as of the date of  
25 retirement, based on the DROP participant's average total direct  
26 pay at the time of retirement and changes to the benefit formula in  
27 Section 12(b) of this article that have occurred since the member's

1 DROP entry date. If this recomputation would result in a greater  
2 monthly service pension, as described by Subsection (c) of this  
3 section, the DROP participant's monthly service pension shall be  
4 adjusted to the greater amount.

5 SECTION 14. Section 15, Article 6243g-4, Revised Statutes,  
6 is amended by amending Subsections (a)-(d) and adding Subsections  
7 (h)-(k) to read as follows:

8 (a) An active member who becomes totally and permanently  
9 incapacitated for the performance of the member's duties as a  
10 result of a bodily injury received in, or illness caused by, the  
11 performance of those duties shall, on presentation to the board of  
12 proof of total and permanent incapacity, be retired and shall  
13 receive an immediate duty-connected disability pension equal to the  
14 greater of 55 [~~50~~] percent of the member's average total direct pay  
15 at the time of retirement or the member's accrued service pension.  
16 If the injury or illness involves a traumatic event that directly  
17 causes an immediate cardiovascular condition resulting in a total  
18 disability, the member is eligible for a duty-connected disability  
19 pension. A disability pension granted by the board shall be paid to  
20 the member for the remainder of the member's life or for as long as  
21 the incapacity remains. If a member is a DROP participant at the  
22 commencement of the member's disability, the member shall have the  
23 option of receiving the DROP balance in any manner that is approved  
24 by the board and that satisfies the requirements of Section  
25 401(a)(9) of the code and Treasury Regulation Section 1.104-1(b)  
26 (26 C.F.R. Section 1.104-1) and is otherwise available to any other  
27 member under this article.

1 (b) A member with 10 years or more of credited service who  
2 becomes totally and permanently incapacitated for the performance  
3 of the member's duties and is not eligible for either an immediate  
4 service pension or a duty-connected disability pension is eligible  
5 for an immediate monthly pension computed in the same manner as a  
6 service retirement pension but based on average total direct pay  
7 and service accrued to the date of the disability. The pension  
8 under this subsection may not be less than 27.5 percent of the  
9 member's average total direct pay.

10 (c) A member who becomes entitled to receive a disability  
11 pension after November 23, 1998, is entitled to receive a one-time  
12 lump-sum payment of \$5,000 at the same time the first monthly  
13 disability pension payment is made; but only if the member has not  
14 previously received a \$5,000 payment under this section or Section  
15 12 of this article. The retired member [~~person~~] shall also receive  
16 an additional amount each month equal to \$150 [~~\$88.05~~], beginning  
17 on the later of the date the pension begins or the date the first  
18 monthly payment becomes due after June 18, 2001, and continuing as  
19 long as the disability pension continues, to help defray the cost of  
20 group medical insurance. [~~A retired member whose disability~~  
21 ~~pension continues and was in pay status on November 23, 1998, is~~  
22 ~~entitled to receive a one-time lump-sum payment of \$5,000 as soon as~~  
23 ~~administratively feasible after November 23, 1998. This payment~~  
24 ~~has no effect on the amount of the retired member's monthly~~  
25 ~~pension.] For any year in which a 13th payment is made to retired  
26 members under Section 12(e) of this article, a 13th payment,  
27 computed in the same manner, shall also be paid to members who have~~

1 retired under this section.

2 (d) A person may not receive a disability pension unless the  
3 person files with the board an application for a disability pension  
4 not later than 180 days after the date of separation from service,  
5 at which time the board shall have the person examined by a  
6 physician chosen and compensated by the board. The physician shall  
7 make a report and recommendations to the board regarding the extent  
8 of any disability and whether any disability that is diagnosed is a  
9 duty-connected disability. Except as provided by Subsection (j) of  
10 this section, a [A] person may not receive a disability pension for  
11 an injury received or illness incurred after separation from  
12 service.

13 (h) As soon as administratively feasible after the later of  
14 June 18, 2001, or the date of the member's retirement because of  
15 disability, an additional monthly disability benefit may be  
16 provided to the member. The additional monthly benefit shall be  
17 equal to the difference between the monthly benefit the member is  
18 receiving under Subsection (a) or (b) of this section, whichever is  
19 applicable, and 100 percent of the member's average total direct  
20 pay at the time of retirement because of disability. The additional  
21 benefit will end on the earlier of the fourth anniversary of the  
22 date the benefit is first paid, the end of the last month the member  
23 is engaged in an education or training program approved in  
24 accordance with procedures adopted by the board, or the date the  
25 member is approved to return to active duty. This additional  
26 monthly benefit is not reduced by any DROP account distributions  
27 the member receives unless the member elects to receive the DROP



1 distributions in the form of an annuity. This additional benefit is  
2 not available to a member who is receiving a disability benefit  
3 under Subsection (j) of this section.

4 (i) Effective for payments that become due after April 30,  
5 2000, and instead of the disability benefit provided by Subsection  
6 (a), (b), or (h) of this section, a member who suffers a  
7 catastrophic injury shall receive a monthly benefit equal to 100  
8 percent of the member's average total direct pay determined as of  
9 the date of retirement.

10 (j) A member who transfers from the police department of a  
11 city subject to this article to another department of the same city,  
12 or who separates from service and is rehired in another department,  
13 and who subsequently terminates employment with the city due to a  
14 duty-connected injury incurred while working as a non-police  
15 employee, shall be entitled to receive an immediate proportional  
16 nonduty-connected disability benefit computed in the same manner as  
17 provided by Subsection (b) of this section, but the benefit shall be  
18 based only on service earned as an employee of the police  
19 department. For purposes of this proportional disability benefit  
20 only, the 180-day application filing requirement in Subsection (d)  
21 of this section begins at the time of separation from the department  
22 that employed the member at the time the disability was incurred. A  
23 person may not receive a disability pension for an injury incurred  
24 after termination from service with the city or for a nonduty  
25 disability incurred after separation from service with the police  
26 department. This proportional nonduty-connected disability  
27 benefit is not available to a person who is already receiving a

1 service retirement pension or disability pension under this  
2 article.

3 (k) A benefit payment that becomes due under this section is  
4 effective on the later of the first day the disabled member leaves  
5 the payroll of the city or the date the member signs the application  
6 for a disability pension.

7 SECTION 15. Sections 16(a), (c), and (f)-(h), Article  
8 6243g-4, Revised Statutes, are amended to read as follows:

9 (a) For purposes of this article, a marriage is considered  
10 to exist only if the marriage is recorded in the records of the  
11 recorder's office in the county in which the marriage ceremony was  
12 performed. In [er, in] the case of a [declaration of] common-law  
13 marriage, a marriage declaration must be [if the declaration is]  
14 signed by the member and the member's common-law spouse before a  
15 notary public and recorded in the records of the county clerk's  
16 office in the county in which the couple resides at the commencement  
17 of the marriage [filed with the board]. In addition, a marriage  
18 that is evidenced by a declaration of common-law marriage signed  
19 before a notary public after December 31, 1999, may not be treated  
20 as effective earlier than the date on which it was signed before the  
21 notary public.

22 (c) If a member of the pension system who has not completed  
23 10 years of service in the police department is killed or dies from  
24 any cause growing out of or in consequence of any act clearly not in  
25 the actual performance of the member's official duty, the member's  
26 surviving spouse, dependent child or children, or dependent parent  
27 or parents are entitled to receive an immediate benefit. The

1 benefit is computed in the same manner as a service retirement  
2 pension but is based on the deceased member's service and average  
3 total direct pay at the time of death. The monthly benefit may not  
4 be less than 27.5 percent of the member's average total direct pay  
5 ~~[only to a refund of the member's contributions to the pension~~  
6 ~~system].~~

7 (f) A surviving spouse who receives a survivor's benefit  
8 under this article is entitled to receive an additional amount each  
9 month equal to \$150 [~~\$88.05~~], beginning with the later of the date  
10 the first payment of the survivor's benefit is due or the date the  
11 first monthly payment becomes due after June 18, 2001, and  
12 continuing until the end of the month in which the surviving spouse  
13 dies.

14 (g) A [~~surviving spouse or dependent who was in pay status~~  
15 ~~on November 23, 1998, is entitled to receive a one-time lump-sum~~  
16 ~~payment of \$5,000 as soon as administratively feasible after~~  
17 ~~November 23, 1998. The] surviving spouse or dependent who becomes  
18 eligible to receive benefits with respect to an active member who  
19 dies in active service after November 23, 1998, is entitled to  
20 receive a one-time lump-sum payment of \$5,000 at the time the first  
21 monthly pension benefit is paid, if the member has not already  
22 received a \$5,000 lump-sum payment under Section 12 or 15(c) of this  
23 article. If more than one dependent is eligible to receive a  
24 payment under this subsection, the \$5,000 shall be divided equally  
25 among the eligible dependents. This payment has no effect on the  
26 amount of the surviving spouse's or dependents' monthly pension and  
27 may not be paid more than once.~~

1 (h) The monthly benefits of surviving spouses or dependents  
2 provided under this section, except the \$150 [~~\$88.05~~] monthly  
3 payments described by Subsection (f) of this section, shall be  
4 increased annually at the same time and by the same percentage as  
5 the pensions of retired members are increased in accordance with  
6 Section 12(c) of this article. Also, for any year in which a 13th  
7 payment is made pursuant to Section 12(e) of this article, a 13th  
8 payment, computed in the same manner, shall also be made to  
9 survivors who are entitled to receive death benefits at that time.

10 SECTION 16. Article 6243g-4, Revised Statutes, is amended  
11 by adding Section 16A to read as follows:

12 Sec. 16A. BENEFICIARY DESIGNATION. (a) The provisions of  
13 Section 16 of this article pertaining to rights of survivors do not  
14 apply to an amount held in a member's DROP account. A member who  
15 participates in DROP may designate a beneficiary to receive the  
16 balance of the member's DROP account in the event of the member's  
17 death, as permitted by Section 401(a)(9) of the code and the board's  
18 policies. A member who is married is considered to have designated  
19 the member's spouse as the member's beneficiary unless the spouse  
20 consents, in a notarized writing delivered to the board, to the  
21 designation of another person as beneficiary. If no designated  
22 beneficiary survives the member, the board may pay the balance of  
23 the member's DROP account to the member's beneficiaries in the  
24 following order:

25 (1) to the member's spouse;

26 (2) if the member does not have a spouse, to each child  
27 of the member in equal shares;

1           (3) if the member does not have a spouse or any  
2 children, to each surviving parent of the member in equal shares; or

3           (4) if the member has no beneficiaries described by  
4 Subdivisions (1), (2), and (3) of this subsection, to the estate of  
5 the member.

6           (b) If a member names a spouse as a beneficiary and is  
7 subsequently divorced from that spouse, the divorce voids the  
8 designation of the divorced spouse as the member's beneficiary. A  
9 designation of a divorced spouse will cause the board to pay any  
10 balance remaining in the member's DROP account in the order  
11 prescribed by Subsection (a) of this section.

12           SECTION 17. Section 17(h), Article 6243g-4, Revised  
13 Statutes, is amended to read as follows:

14           (h) Subject to procedures adopted by the board, the pension  
15 system shall accept a direct cash transfer of funds from another  
16 plan that is an eligible rollover distribution within the meaning  
17 of Section 402(f)(2)(A) of the code. The transfer shall be accepted  
18 only for the purpose of repaying contributions the member has  
19 previously withdrawn or for other purposes expressly authorized by  
20 the board's procedures. [~~City contributions made under Section 9(b)~~  
21 ~~of this article based on the unused sick leave, vacation pay, and~~  
22 ~~accumulated overtime pay of a member who has separated from service~~  
23 ~~may be applied, at the election of the member seeking a refund, to~~  
24 ~~pay a refund of member contributions if the contributions are not~~  
25 ~~used under Section 11(c) of this article to satisfy a service~~  
26 ~~requirement for retirement.]~~

27           SECTION 18. Section 18, Article 6243g-4, Revised Statutes,

1 is amended by amending Subsections (a) and (b) and adding  
2 Subsection (d) to read as follows:

3 (a) Except as provided by this section:

4 (1) [7] credit may not be allowed to any person for  
5 service with any department in the city other than the police  
6 department; and

7 (2) a [~~Except as provided by this section, if a~~  
8 ~~person is transferred to or from some other department of the city~~  
9 ~~to or from the police department, the~~] person's service will be  
10 computed from the date of entry into the service of the police  
11 department until the date of separation from service with the  
12 police department.

13 (b) Solely for purposes of determining whether a person has  
14 a sufficient number of years of service to receive a retirement  
15 pension or to enter the DROP program, and not for purposes of  
16 determining the amount of the pension or DROP credit, a person who  
17 is employed in any full-time position with the city after June 18,  
18 2001 [~~November 23, 1998~~], and has or obtains any credited service  
19 with the pension system after that date, shall receive service  
20 credit for any period of full-time employment with the same city.  
21 However, a person may not receive credit for service with both the  
22 police department and any other department of the city for the same  
23 period.

24 (d) Classified police officers who were formerly employed  
25 by a city as park police, airport police, or marshals, who were  
26 involuntarily transferred from another city department to the  
27 police department of the city, and who are current active members of

1 the pension system shall have the option to receive credit with the  
2 pension system for previous service with another pension system of  
3 the city, provided that a person may not receive service credit for  
4 both pension systems for the same period of service.

5 SECTION 19. Section 20, Article 6243g-4, Revised Statutes,  
6 is amended to read as follows:

7 Sec. 20. DONATIONS. The pension system may accept gifts  
8 and donations, and the gifts and donations shall be added to the  
9 fund for the use of the pension system, including, but not limited  
10 to, for use for education programs and the related administrative  
11 expenses of the programs.

12 SECTION 20. Section 22, Article 6243g-4, Revised Statutes,  
13 is amended to read as follows:

14 Sec. 22. LEGAL ADVICE. The city attorney of the city shall  
15 handle all legal matters for the pension system that are referred by  
16 the board without additional compensation for the service. The  
17 board may, however, as it considers necessary, employ outside legal  
18 counsel to the exclusion of, or to assist, the city attorney and pay  
19 reasonable compensation for the service of the additional legal  
20 counsel from the fund.

21 SECTION 21. Section 23, Article 6243g-4, Revised Statutes,  
22 is amended to read as follows:

23 Sec. 23. MEMBERS IN MILITARY SERVICE. (a) A member of the  
24 pension system engaged in active service in a uniformed service may  
25 not be required to make the monthly payments into the fund and may  
26 not lose any previous years' service with the city because of the  
27 uniformed service. The uniformed service shall count as continuous

1 service in the police department if the member returns to the city  
2 police department after discharge from the uniformed service as an  
3 employee within the period required by the Uniformed Services  
4 Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section  
5 4301 et seq.), as amended, and the uniformed service does not exceed  
6 the period for which a person is entitled to have service counted  
7 pursuant to that Act. Notwithstanding any other provision of this  
8 article, contributions and benefits shall be paid and qualified  
9 service for military service shall be determined in compliance with  
10 Section 414(u) of the code.

11 (b) The city is required to make its [~~regular monthly~~]  
12 payments into the fund on behalf of each member while the member is  
13 engaged in a uniformed service. If a member who has less than 10  
14 years of service in the pension system dies directly or indirectly  
15 as a result of the uniformed service, and without returning to  
16 active service, the spouse, dependent children, dependent parent,  
17 or estate of the member is entitled to receive a benefit [~~refund~~] in  
18 the same manner as described by Section 16(c) of this article.

19 SECTION 22. Sections 25(d) and (e), Article 6243g-4,  
20 Revised Statutes, are amended to read as follows:

21 (d) The total salary taken into account for any purpose for  
22 any member of the pension system may not exceed \$200,000 for any  
23 year for an eligible participant, or for years beginning after 2001  
24 for an ineligible participant, or \$150,000 a year before 2001 for an  
25 ineligible participant. These dollar limits shall be adjusted from  
26 time to time in accordance with guidelines provided by the United  
27 States secretary of the treasury. For purposes of this subsection,



1 an eligible participant is a person who first became an active  
2 member before 1996, and an ineligible participant is a member who is  
3 not an eligible participant.

4 (e) Accrued benefits under this article become 100 percent  
5 nonforfeitable for a member on the date the member has completed 10  
6 years of service. If the pension system or the fund is terminated  
7 or partially terminated, or city contributions to the fund are  
8 discontinued completely, there may not be a reversion of funds to  
9 the employer. On complete or partial termination or discontinuance  
10 of city contributions, the fund held by the pension system shall be  
11 used exclusively for benefits for members and their surviving  
12 spouses and dependents, and the members' [~~affected employees'~~]  
13 rights to the benefits, to the extent funded, shall be  
14 nonforfeitable if not already nonforfeitable under this  
15 subsection.

16 SECTION 23. Article 6243g-4, Revised Statutes, is amended  
17 by adding Section 29 to read as follows:

18 Sec. 29. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS OR  
19 BENEFICIARIES. (a) Information contained in a record that is in  
20 the custody of a fund established under this article concerning an  
21 individual member, retiree, survivor, or beneficiary is  
22 confidential for purposes of Sections 552.101, 552.102, and  
23 552.117, Government Code. The information may not be disclosed in a  
24 form that identifies a specific individual unless the information  
25 is disclosed to:

- 26 (1) the individual;  
27 (2) the individual's attorney, guardian, executor,

1 administrator, or conservator; or

2 (3) a person who has written authorization from the  
3 individual to receive the information.

4 (b) This section does not prevent the disclosure of the  
5 status or identity of an individual as a member, former member,  
6 retiree, deceased member, survivor, beneficiary, or alternate  
7 payee of the system.

8 SECTION 24. Sections 9(b), 15(f), and 16(d), Article  
9 6243g-4, Revised Statutes, are repealed.

10 SECTION 25. This Act takes effect September 1, 2003.

David Swinhurst

President of the Senate

Jim Cusick

Speaker of the House

I certify that H.B. No. 752 was passed by the House on April 25, 2003, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 752 on May 29, 2003, by a non-record vote.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 752 was passed by the Senate, with amendments, on May 27, 2003, by the following vote: Yeas 31, Nays 0.

Patsy Spaw  
Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

\_\_\_\_\_  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
3:30 P.M. O'CLOCK

JUN 21 2003  
Kevin Shea  
Secretary of State