

By: Flynn

H.B. No. 2763

A BILL TO BE ENTITLED

# 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. Sections 2.01, 2.02, and 2.03, Chapter 325 (H.B.  
5 2259), Acts of the 75th Legislature, Regular Session, 1997 (Article  
6 6243p, Vernon's Texas Civil Statutes), are amended to read as  
7 follows:

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

20 Sec. 2.02. COMPOSITION OF BOARD. (a) The board of trustees  
21 of the fund is composed of eight trustees [~~seven members~~] as  
22 follows:

23 (1) two trustees who are members of the fund elected by  
24 the members of the fund [the president of the municipality's police

1 ~~association, to serve during the president's term of office, except~~  
2 ~~as provided by Subsection (b) of this section~~;

3 (2) one trustee [~~municipal financial staff employee~~] designated  
4 by the city manager, to serve at the pleasure of the city  
5 manager;

6 (3) one trustee [~~legally qualified voter~~] designated  
7 by the mayor, to serve a two-year term;

8 (4) two trustees who are [~~one~~] legally qualified  
9 voters [~~voter~~] designated by the city council, to serve a two-year  
10 term; and

11 (5) two trustees who are not active or retired [~~three~~] members of the fund elected by the members of the fund, each to  
12 serve a three-year term.

14 (b) To be appointed or elected a trustee under this section,  
15 a person must have demonstrated financial, accounting, business,  
16 investment, budgeting, real estate, or actuarial expertise [~~If the~~  
17 ~~president of the municipality's police association is prevented by~~  
18 ~~the constitution or bylaws of the association from serving as a~~  
19 ~~member of the board of trustees or if the president is not a member~~  
20 ~~of the fund, the member of the fund who holds the next highest~~  
21 ~~ranking office in the association serves on the board in place of~~  
22 ~~the president of the association for the term of the officer's~~  
23 ~~office in the association~~].

24 (c) A trustee [~~member of the board of trustees~~] serves until  
25 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         Sec. 2.03. ELECTED TRUSTEES. The board shall provide by  
6 rule [~~for~~] the:

7                 (1) procedure for electing trustees described by  
8 Sections 2.02(a)(1) and (5) [~~Section 2.02(a)(5)~~] of this Act; and  
9                 (2) terms for a trustee elected under Section  
10 2.02(a)(1) of this Act.

11         SECTION 2. Sections 2.09(a), (b), and (c), Chapter 325  
12 (H.B. 2259), Acts of the 75th Legislature, Regular Session, 1997  
13 (Article 6243p, Vernon's Texas Civil Statutes), are amended to read  
14 as follows:

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

1 use money in the fund to purchase an insurance policy under this  
2 subsection.

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

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

19                   SECTION 3. Chapter 325 (H.B. 2259), Acts of the 75th  
20 Legislature, Regular Session, 1997 (Article 6243p, Vernon's Texas  
21 Civil Statutes), is amended by adding Sections 2.10 and 2.11 to read  
22 as follows:

23                   Sec. 2.10. ADMINISTRATIVE REQUIREMENTS. The board of  
24 trustees shall:

25                   (1) review any future adjustments of benefits or  
26 actuarial assumptions against the pension fund's long-term funding  
27 policy goals;

1                   (2) ensure that the actuarial assumptions adopted by  
2                   the board at any particular time are realistic, reasonable in the  
3                   aggregate, and reflect the best information available to the board;

4                   (3) measure the performance of the fund's portfolio  
5                   against relevant benchmarks to ensure the board or an investment  
6                   manager hired under Section 2.05 of this Act is investing the assets  
7                   and managing the portfolio of the fund in a manner that provides the  
8                   best value to the fund; and

9                   (4) review the fund's asset allocation on an ongoing  
10                   basis to determine appropriate risk levels.

11                   Sec. 2.11. ACTION INCREASING AMORTIZATION PERIOD. (a)  
12                   Notwithstanding any other provision of this Act, the rate of the  
13                   municipality's contributions to the pension fund may not be reduced  
14                   or eliminated, a new monetary benefit payable by the pension fund  
15                   may not be established, and the amount of a monetary benefit from  
16                   the fund may not be increased, if, as a result of the particular  
17                   action, the time, as determined by an actuarial valuation, required  
18                   to amortize the unfunded actuarial liabilities of the pension fund  
19                   would be increased to a period that exceeds 25 years.

20                   (b) If the amortization period for the unfunded actuarial  
21                   liabilities of the pension fund exceeds 25 years at the time an  
22                   action described by Subsection (a) of this section is proposed, the  
23                   proposal may not be adopted if, as a result of the adoption, the  
24                   amortization period would be increased, as determined by an  
25                   actuarial valuation.

26                   SECTION 4. Sections 6.01, 6.03, and 7.01, Chapter 325 (H.B.  
27 2259), Acts of the 75th Legislature, Regular Session, 1997 (Article

1 6243p, Vernon's Texas Civil Statutes), are amended to read as  
2 follows:

3       Sec. 6.01. PARTICIPATION IN FUND; WAGE DEDUCTIONS. (a)  
4       Each member shall make contributions to the fund[~~, except in a time~~  
5 ~~of national emergency,~~] and, subject to modifications made in  
6 accordance with this section, the municipality shall [~~is authorized~~  
7 ~~to~~] deduct 12 [~~a sum of not less than one percent and not more than~~  
8 ~~10~~] percent of the member's monthly wages as contributions to the  
9 fund for service rendered after August 31, 2019. [~~The board shall~~  
10 ~~determine the percentage deducted from monthly wages, as provided~~  
11 ~~by Section 2.01 of this Act, within the minimum and maximum~~  
12 ~~deductions provided by this section or as otherwise provided by~~  
13 ~~Section 11.01 of this Act.~~]

14       (b) In accordance with Section 11.01 of this Act, the board  
15 may vote to reduce the percentage of wage deductions provided by  
16 Subsection (a) of this section. The amount of a reduction under  
17 this subsection may not exceed two percent of the member's monthly  
18 wages. The board may authorize the reduction only if:

19               (1) the amortization period of the unfunded actuarial  
20 accrued liability of the pension fund, as determined by an  
21 actuarial valuation, does not exceed 20 years; and  
22               (2) after taking into account the impact of the  
23 reduction, the State Pension Review Board certifies that the fund's  
24 unfunded actuarial accrued liability amortization period does not  
25 exceed 25 years.

26       (c) If the board reduces the percentage of wage deductions  
27 in the manner provided by Subsection (b) of this section, the board

1 may not again vote under that subsection to reduce the percentage of  
2 wage deductions before the completion of a subsequent actuarial  
3 valuation showing an unfunded actuarial accrued liability  
4 amortization period that does not exceed 20 years.

5 (d) Notwithstanding any other provision of this Act, the  
6 board may not:

7 (1) reduce the percentage of members' wage deductions  
8 under this Act to a percentage that is less than 8.5 percent; or  
9 (2) increase the percentage of members' wage  
10 deductions under this Act to a percentage that is more than the  
11 percentage contributed by the municipality under Section 6.03 of  
12 this Act.

13 Sec. 6.03. CONTRIBUTIONS BY MUNICIPALITY; REDUCTIONS. (a)  
14 The municipality[, acting under the advice of the actuary for the  
15 fund,] shall contribute to the fund 18 percent [contributions  
16 expressed as a percentage] of payroll or compensation for each  
17 member[, in such amounts and at such times as are required to pay  
18 the municipality's normal cost and interest on any unfunded  
19 actuarial requirement at the rate of interest assumed in the  
20 actuarial valuation]. The municipality shall also include in the  
21 contribution to the fund sufficient money to pay the costs of  
22 administration of the fund, including the costs of periodic  
23 actuarial evaluations and annual statements to the members of the  
24 fund.

25 (b) Notwithstanding Section 11.01 of this Act and subject to  
26 Section 2.11 of this Act, the municipality, with the approval of at  
27 least six trustees, may reduce the municipality's contribution rate

1 prescribed by Subsection (a) of this section, except as otherwise  
2 provided by Section 6.01(d)(2) of this Act.

3           Sec. 7.01. NORMAL PENSION. A member who retires on or after  
4 the member's 65th birthday or who has at least 25 years of service  
5 and retires on or after the member's 58th birthday is entitled to  
6 receive a monthly amount equal to the following:

7           (1) 1.35 percent of the member's average monthly  
8 compensation multiplied by the number of years of service, not to  
9 exceed 15 years; plus

10           (2) 1.65 percent of the member's average monthly  
11 compensation multiplied by the number of years of service in excess  
12 of 15 years, not to exceed an additional 15 years, for a total of 30  
13 years.

14           SECTION 5. Section 7.02(a), Chapter 325 (H.B. 2259), Acts  
15 of the 75th Legislature, Regular Session, 1997 (Article 6243p,  
16 Vernon's Texas Civil Statutes), is amended to read as follows:

17           (a) A member who terminates service on or after the member's  
18 55th birthday but before the member's 58th [65th] birthday and who  
19 has at least 25 [10] years of service credited in the fund is  
20 entitled to receive a monthly amount equal to a benefit determined  
21 as a fraction of the following amount:

22           (1) 1.35 percent of the member's average monthly  
23 compensation multiplied by the sum of the number of full and  
24 fractional years of service, not to exceed 15 years, plus the number  
25 of years and full months from the date of termination of employment  
26 to the member's 65th birthday; plus

27           (2) 1.65 percent of the member's average monthly

1 compensation multiplied by the sum of the number of full and  
2 fractional years of service, not to exceed an additional 15 years,  
3 for a total of 30 years, plus the number of years and full months  
4 from date of termination of employment to the member's 65th  
5 birthday.

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

9 Sec. 11.01. MODIFICATION OF BENEFITS, MEMBERSHIP  
10 QUALIFICATIONS, ELIGIBILITY REQUIREMENTS, AND CONTRIBUTIONS. (a)  
11 Subject to Section 2.11 [~~Notwithstanding any other provision~~] of  
12 this Act, the board, with the approval of at least five trustees  
13 [~~four board members~~], may modify:

14 (1) benefits provided by this Act, except that any  
15 increase in benefits is subject to Subsection (b) of this section;  
16 (2) future membership qualifications;  
17 (3) eligibility requirements for pensions or  
18 benefits; or

19 (4) the percentage of wage deductions provided by  
20 Section 6.01 of this Act, except that any increase in wage  
21 deductions is subject to Subsection (b)(2) of this section.

22 (b) The [~~Notwithstanding any other provision of this Act,~~  
23 ~~the~~] board, with the approval of at least six trustees [~~a majority~~  
24 ~~of the members of the fund~~], may increase either of the following:

25 (1) benefits provided by this Act; or  
26 (2) the percentage of wage deductions provided by  
27 Section 6.01 of this Act[, ~~except that, if the actuary for the fund~~

1 certifies that an increase is necessary to maintain an actuarially  
2 sound plan, the board may, with the approval of at least four board  
3 members, increase the percentage of wage deductions].

4 (c) Notwithstanding any other provision of this Act, the  
5 board, with the approval of at least five trustees [~~four board~~  
6 ~~members~~], may provide for refunds, in whole or in part, with or  
7 without interest, of accumulated contributions made to the fund by  
8 members who leave the municipality's service before qualifying for  
9 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 at least five trustees [~~four board members~~]. To  
13 qualify, an actuary who is an individual must be a Fellow of the  
14 Society of Actuaries, a Fellow of the Conference of Actuaries in  
15 Public Practice, or a member of the American Academy of Actuaries.  
16 The basis for the actuary's approval or disapproval of a board  
17 action is not subject to judicial review.

18 (e) Notwithstanding any other provision of this Act, if in  
19 each of the previous eight fiscal years the actual rate of return on  
20 the investment of the pension fund's assets did not equal or exceed  
21 the assumed rate of return used in actuarial valuations prepared by  
22 the fund, the board may not modify a benefit or contribution rate  
23 under this Act in a manner that results in an increase to the fund's  
24 unfunded actuarial accrued liability.

25 SECTION 7. (a) In this section, "board of trustees" and  
26 "pension fund" have the meanings assigned by Section 1.04, Chapter  
27 325 (H.B. 2259), Acts of the 75th Legislature, Regular Session,

1 1997 (Article [6243p](#), Vernon's Texas Civil Statutes).

2 (b) Section 2.02, Chapter 325 (H.B. 2259), Acts of the 75th  
3 Legislature, Regular Session, 1997 (Article [6243p](#), Vernon's Texas  
4 Civil Statutes), as amended by this Act, does not affect the  
5 entitlement of a trustee serving on the board immediately before  
6 the effective date of this Act to continue to serve as a trustee for  
7 the remainder of the trustee's term. As the terms of trustees  
8 expire or as a vacancy occurs on the board, the appropriate person  
9 or persons shall appoint or elect, as applicable, a trustee to the  
10 board as necessary to comply with Section 2.02, Chapter 325 (H.B.  
11 2259), Acts of the 75th Legislature, Regular Session, 1997 (Article  
12 [6243p](#), Vernon's Texas Civil Statutes), as amended by this Act.

13 (c) As soon as practicable after the effective date of this  
14 Act, the city council of a municipality to which this Act applies  
15 shall designate two persons to serve as trustees in accordance with  
16 Section 2.02(a)(4), 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.

19 SECTION 8. Sections 6.01 and 6.03, Chapter 325 (H.B. 2259),  
20 Acts of the 75th Legislature, Regular Session, 1997 (Article [6243p](#),  
21 Vernon's Texas Civil Statutes), as amended by this Act, apply only  
22 to a wage deduction or contribution made on or after the effective  
23 date of this Act.

24 SECTION 9. Section 11.01(e), Chapter 325 (H.B. 2259), Acts  
25 of the 75th Legislature, Regular Session, 1997 (Article [6243p](#),  
26 Vernon's Texas Civil Statutes), as added by this Act, applies to an  
27 actuarial valuation prepared by the pension fund before, on, or

H.B. No. 2763

1 after the effective date of this Act. In this section, "pension  
2 fund" has the meaning assigned by Section 1.04, Chapter 325 (H.B.  
3 2259), Acts of the 75th Legislature, Regular Session, 1997 (Article  
4 [6243p](#), Vernon's Texas Civil Statutes).

5 SECTION 10. This Act takes effect September 1, 2019.