

# SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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## PROCEEDINGS

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### SIXTIETH DAY

(Continued)

(Sunday, May 21, 2017)

### AFTER RECESS

The Senate met at 7:00 p.m. and was called to order by the President.

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Sunday, May 21, 2017 - 1

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

I am directed by the house to inform the senate that the house has taken the following action:

THE HOUSE HAS CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

**HB 66** (134 Yeas, 0 Nays, 2 Present, not voting)

**HB 129** (133 Yeas, 0 Nays, 2 Present, not voting)

**HB 791** (141 Yeas, 0 Nays, 2 Present, not voting)

**HB 920** (140 Yeas, 1 Nays, 2 Present, not voting)

**HB 1128** (140 Yeas, 0 Nays, 1 Present, not voting)

**HB 1449** (107 Yeas, 27 Nays, 2 Present, not voting)

**HB 1526** (141 Yeas, 1 Nays, 1 Present, not voting)

**HB 1625** (140 Yeas, 0 Nays, 1 Present, not voting)

**HB 1691** (139 Yeas, 0 Nays, 1 Present, not voting)

**HB 1697** (141 Yeas, 1 Nays, 1 Present, not voting)

**HB 1761** (141 Yeas, 0 Nays, 1 Present, not voting)

**HB 1819** (142 Yeas, 0 Nays, 1 Present, not voting)

**HB 2437** (141 Yeas, 0 Nays, 1 Present, not voting)

**HB 2964** (142 Yeas, 0 Nays, 1 Present, not voting)

**HB 3101** (142 Yeas, 0 Nays, 1 Present, not voting)

**HB 3903** (122 Yeas, 11 Nays, 2 Present, not voting)

**HCR 42** (140 Yeas, 1 Nays, 1 Present, not voting)

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**SB 21** (non-record vote)

House Conferees: King, Phil - Chair/Darby/Gonzales, Larry/King, Ken/Thompson, Senfronia

**SB 179** (non-record vote)

House Conferees: Minjarez - Chair/Bernal/Faircloth/Huberty/Moody

**SB 527** (non-record vote)

House Conferees: Cook - Chair/Burns/Kacal/Moody/Rodriguez, Justin

**SB 1070** (non-record vote)

House Conferees: Frullo - Chair/Muñoz, Jr./Phillips/Smithee/Turner

**SB 1289** (non-record vote)

House Conferees: Paddie - Chair/Ashby/Darby/Lucio III/Phelan

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**SB 301** (135 Yeas, 0 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Sunday, May 21, 2017 - 2

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

I am directed by the house to inform the senate that the house has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

- SB 8** Schwertner Sponsor: Burkett  
Relating to certain prohibited abortions and the treatment and disposition of a human fetus, human fetal tissue, and embryonic and fetal tissue remains; creating a civil cause of action; imposing a civil penalty; creating criminal offenses.  
(Committee Substitute/Amended)
- SB 22** Taylor, Larry Sponsor: Lucio III  
Relating to the establishment of a Pathways in Technology Early College High School (P-TECH) program and to the repeal of the tech-prep program.
- SB 30** West Sponsor: Thompson, Senfronia  
Relating to inclusion of instruction regarding interaction with peace officers in the required curriculum for certain public school students and in driver education courses and to civilian interaction training for peace officers.  
(Amended)
- SB 81** Nelson Sponsor: Davis, Sarah  
Relating to the operations of the Cancer Prevention and Research Institute of Texas; authorizing a trust company to charge the institute an investment fee.  
(Amended)
- SB 297** Hinojosa Sponsor: Miller  
Relating to the compensatory time and overtime pay for commissioned officers of the Department of Public Safety.
- SB 725** Miles Sponsor: Bernal  
Relating to donation and distribution of surplus food at public schools and grace period policies for public school students with insufficient balances on prepaid meal cards.  
(Committee Substitute/Amended)
- SB 790** Miles Sponsor: Howard  
Relating to the continuation of the women's health advisory committee.
- SB 922** Buckingham Sponsor: Gonzales, Larry  
Relating to the reimbursement of certain providers under the Medicaid program for the provision of telehealth services.  
(Amended)
- SB 968** Watson Sponsor: Alvarado  
Relating to requiring certain public and private institutions of higher education to provide students and employees an option to electronically report certain offenses to the institution.  
(Amended)
- SB 969** Watson Sponsor: Leach  
Relating to requiring certain public and private institutions of higher education to provide amnesty to students who report incidents of sexual assault.  
(Amended)
- SB 1045** Estes Sponsor: Kacal  
Relating to the consolidation of public notice requirements for certain air quality permit applications.

- SB 1129** Hinojosa Sponsor: Herrero  
Relating to franchises granted by navigation districts.  
(Committee Substitute)
- SB 1187** West Sponsor: Phillips  
Relating to the offense of operating a motor vehicle without financial responsibility.
- SB 1220** Miles Sponsor: Vo  
Relating to ensuring continuity of education and access to higher education, career information, and skills certification for foster care youth and former foster care youth.
- SB 1395** Creighton Sponsor: Perez  
Relating to the powers and duties of navigation districts and port authorities.
- SB 1501** Zaffirini Sponsor: Kuempel  
Relating to the regulation of motor vehicle towing, booting, and storage and to the elimination of required state licensing for vehicle booting companies and operators.  
(Committee Substitute/Amended)
- SB 1849** Whitmire Sponsor: Coleman  
Relating to interactions between law enforcement and individuals detained or arrested on suspicion of the commission of criminal offenses, to the confinement, conviction, or release of those individuals, and to grants supporting populations that are more likely to interact frequently with law enforcement.
- SB 2006** Watson Sponsor: Morrison, Geanie W.  
Relating to erecting or maintaining certain outdoor signs regulated by the Texas Department of Transportation.
- SB 2118** Seliger Sponsor: Davis, Sarah  
Relating to authorization by the Texas Higher Education Coordinating Board for certain public junior colleges to offer baccalaureate degree programs.  
(Amended)
- SB 2227** Hinojosa Sponsor: Martinez, "Mando"  
Relating to an increase in and the use of the fee for permits issued for the movement of oversize or overweight vehicles carrying cargo in Hidalgo County.  
(Committee Substitute)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Sunday, May 21, 2017 - 3

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the house to inform the senate that the house has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

**SB 208** West Sponsor: Rodriguez, Eddie  
Relating to the regulation of metal recycling entities; providing an administrative penalty; creating a criminal offense.

**SB 213** Menéndez Sponsor: Rodriguez, Justin  
Relating to the office of ombudsman for the Department of Family and Protective Services.  
(Amended)

**SB 320** Nichols Sponsor: Bailes  
Relating to the creation of River Ranch Improvement District of Liberty County; providing authority to issue bonds; providing authority to impose assessments, fees, or taxes.

**SB 321** Nichols Sponsor: Bailes  
Relating to the creation of the River Ranch Municipal Utility District of Liberty County and the Riverside Municipal Utility District of Liberty County; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, or taxes.

**SB 377** Perry Sponsor: Burkett  
Relating to the Texas Achieving a Better Life Experience (ABLE) Program.

**SB 396** Zaffirini Sponsor: Kuempel  
Relating to the designation of Business State Highway 123-B in Guadalupe County as the Texas Game Warden Teyran "Ty" Patterson Memorial Highway.  
(Committee Substitute)

**SB 499** West Sponsor: Wray  
Relating to the adoption of the Uniform Partition of Heirs' Property Act.

**SB 510** Zaffirini Sponsor: Smithee  
Relating to the confidentiality of certain home address information in ad valorem tax appraisal records.

**SB 532** Nelson Sponsor: Capriglione  
Relating to information collected about and purchases of information technology by governmental entities.  
(Committee Substitute/Amended)

**SB 539** Hinojosa Sponsor: Hunter  
Relating to the qualifications for an impartial third party in certain civil disputes.

**SB 560** Hancock Sponsor: Parker  
Relating to surcharges imposed for the use of a credit card; providing a civil penalty.

**SB 686** Uresti Sponsor: Murr  
Relating to the authority of certain counties to impose a hotel occupancy tax.

- SB 714** Seliger Sponsor: Geren  
Relating to certain account disclosures provided by a financial institution to a customer.
- SB 718** Creighton Sponsor: Anderson, Rodney  
Relating to the regulation of insurance adjusters.
- SB 721** Perry Sponsor: Davis, Sarah  
Relating to treatment and care provided by licensed medical professionals to animals in certain facilities.  
(Amended)
- SB 726** Seliger Sponsor: Price  
Relating to elections held by the Panhandle Groundwater Conservation District.
- SB 799** Rodríguez Sponsor: Blanco  
Relating to the authority of certain counties to impose a hotel occupancy tax.
- SB 864** Perry Sponsor: King, Tracy O.  
Relating to the procedure for obtaining a right to use state water if the applicant proposes an alternative source of water that is not state water.
- SB 867** Seliger Sponsor: King, Ken  
Relating to the designation of United States Highway 287 in Armstrong and Donley Counties as the Colonel Charles Goodnight Memorial Highway.
- SB 887** Seliger Sponsor: Clardy  
Relating to a requirement that certain participating institutions under the student loan program administered by the Texas Higher Education Coordinating Board provide loan debt information to certain students.
- SB 904** Birdwell Sponsor: Burns  
Relating to the creation of the Cresson Municipal Utility District No. 1 of Hood County; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.
- SB 924** Perry Sponsor: Klick  
Relating to informal dispute resolutions for violations of health and safety standards at certain long-term care facilities; authorizing the imposition of costs.  
(Committee Substitute)
- SB 952** Hancock Sponsor: Villalba  
Relating to enforcement of a lien on property in a self-service storage facility by a sale conducted through an Internet website.
- SB 976** Birdwell Sponsor: Kacal  
Relating to the dissolution of the Falls County Water Control and Improvement District No. 1.
- SB 998** West Sponsor: Canales  
Relating to the statute of limitations for the offense of exploitation of a child, elderly individual, or disabled individual.
- SB 1023** Nelson Sponsor: Simmons  
Relating to the confidentiality of personal identifying information collected by certain airport governing boards.

- SB 1089** Perry Sponsor: Burkett  
Relating to the certification of food service workers.  
(Committee Substitute)
- SB 1102** Creighton Sponsor: Paddie  
Relating to weight limitations for natural gas motor vehicles.
- SB 1119** Zaffirini Sponsor: Howard  
Relating to an annual report on employment positions provided through the Texas college work-study program.
- SB 1136** Hinojosa Sponsor: Canales  
Relating to the use of municipal hotel occupancy tax revenue by certain municipalities.
- SB 1152** Menéndez Sponsor: Rodriguez, Justin  
Relating to excused absences from public school for the purpose of pursuing enlistment in a branch of the armed services of the United States or the Texas National Guard.
- SB 1179** Nelson Sponsor: Simmons  
Relating to purchasing and contracting practices of coordinated county transportation authorities.
- SB 1193** Taylor, Van Sponsor: Parker  
Relating to the adoption of the Texas Revised Uniform Fiduciary Access to Digital Assets Act.
- SB 1199** Campbell Sponsor: Minjarez  
Relating to service contract providers.
- SB 1237** Rodríguez Sponsor: Lucio III  
Relating to procedures in a suit for dissolution of a marriage or a suit affecting the parent-child relationship.
- SB 1238** Rodríguez Sponsor: Moody  
Relating to the eligibility of certain at-risk developments to receive low income housing tax credits.
- SB 1242** Rodríguez Sponsor: Burkett  
Relating to the confidentiality of certain personal information of an applicant for or a person protected by a protective order.
- SB 1260** Creighton Sponsor: Faircloth  
Relating to the Chambers County Improvement District No. 2.
- SB 1290** Creighton Sponsor: Metcalf  
Relating to access to criminal history record information by an emergency communication district.
- SB 1304** Perry Sponsor: White  
Relating to confidentiality, sharing, sealing, and destruction of juvenile records.  
(Amended)
- SB 1349** Watson Sponsor: Pickett  
Relating to the authority of the Texas Department of Motor Vehicles over real property and to the transfer of specific property from the Texas Department of Transportation.

- SB 1361** Creighton Sponsor: Deshotel  
Relating to the powers and duties of the Sabine-Neches Navigation District of Jefferson County.
- SB 1381** Hughes Sponsor: Longoria  
Relating to photo identification for certain debit or credit card transactions.  
(Committee Substitute)
- SB 1401** Campbell Sponsor: Dean  
Relating to the regulation of banks and trust companies.  
(Committee Substitute)
- SB 1403** Campbell Sponsor: Burrows  
Relating to the regulation of money services businesses.
- SB 1479** Hughes Sponsor: Paddie  
Relating to the election of the board of directors of the Panola County Groundwater Conservation District.
- SB 1490** Zaffirini Sponsor: Perez  
Relating to the premium surcharge certain automobile insurers are required to assess against an insured convicted of certain offenses.
- SB 1492** Zaffirini Sponsor: Smithee  
Relating to rules adopted by the commissioner of insurance to stabilize long-term care premium rates.
- SB 1502** Zaffirini Sponsor: Kuempel  
Relating to the regulation of barbering and cosmetology.
- SB 1503** Zaffirini Sponsor: Goldman  
Relating to abolishing shampoo apprentice permits and shampoo specialty certificates.  
(Committee Substitute)
- SB 1519** Hancock Sponsor: Geren  
Relating to the definition of a public entertainment facility and the promotion, sponsorship, or advertising of an entertainment event or venue or alcoholic beverage at certain governmentally owned public entertainment facilities.
- SB 1523** Nichols Sponsor: Davis, Yvonne  
Relating to the creation of the state safety oversight program for rail fixed guideway public transportation systems.
- SB 1539** Watson Sponsor: Bohac  
Relating to the application of the sales and use tax to certain property and services.  
(Committee Substitute/Amended)
- SB 1548** Menéndez Sponsor: Minjarez  
Relating to post-discharge services offered by a juvenile board or juvenile probation department to a child after the child's probation period ends.
- SB 1565** Kolkhorst Sponsor: Minjarez  
Relating to the procedure for ordering medical or dental services for certain persons admitted to or committed to care at certain state facilities.
- SB 1571** Huffman Sponsor: Frullo  
Relating to the release of a child taken into possession by a law enforcement officer.  
(Amended)

- SB 1667** Seliger Sponsor: Landgraf  
Relating to the nature, funding, and functions of the Texas Low-Level Radioactive Waste Compact Commission.
- SB 1705** Taylor, Van Sponsor: Thompson, Senfronia  
Relating to the application for and issuance of a marriage license and the marriage of a minor.
- SB 1732** Birdwell Sponsor: Burns  
Relating to the designation of a portion of Interstate Highway 35W in Johnson County as the Deputy Clifton Taylor Memorial Highway.
- SB 1806** Huffman Sponsor: Miller  
Relating to requiring the use of multidisciplinary teams appointed by children's advocacy centers in certain child abuse investigations.
- SB 1813** Buckingham Sponsor: Turner  
Relating to the adoption of common admission application forms for institutions of higher education.  
(Committee Substitute)
- SB 1837** Hughes Sponsor: Bohac  
Relating to financial accountability standards for charter schools operated by a public institution of higher education.
- SB 1864** Taylor, Larry Sponsor: Perez  
Relating to the administration of the Port of Houston Authority.
- SB 1877** Perry Sponsor: Wray  
Relating to sending notice of proposed contracts for highway projects by e-mail.
- SB 1901** Campbell Sponsor: Huberty  
Relating to Texas Military Heroes Day in public schools.
- SB 1932** West Sponsor: Lucio III  
Relating to eligibility requirements for registration as an interior designer.  
(Amended)
- SB 1952** Hughes Sponsor: Pickett  
Relating to off-site sales by a dealer for antique or special interest vehicles that have been subject to a retail sale.
- SB 1965** Creighton Sponsor: Dutton  
Relating to enforcement of child support obligations.
- SB 2242** Hinojosa Sponsor: Lozano  
Relating to the resolution of disputes or errors involving the ad valorem taxation of the same property by multiple taxing units of the same type as a result of disputed, overlapping, or erroneously applied boundaries.  
(Committee Substitute)
- SB 2243** Buckingham Sponsor: Workman  
Relating to the powers and duties and election of the board of directors of the West Travis County Municipal Utility District No. 3.

**SB 2245** Campbell Sponsor: Isaac  
Relating to the creation of the North Hays County Municipal Utility District No. 2; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

**SB 2255** Campbell Sponsor: Bernal  
Relating to the composition of the Comal County Juvenile Board.

**SB 2268** Creighton Sponsor: Bell  
Relating to the creation of the Montgomery County Municipal Utility District No. 159; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

**SB 2271** Creighton Sponsor: Phelan  
Relating to the creation of Port Neches Improvement District; providing authority to issue bonds; providing authority to impose assessments, fees, or taxes.

**SB 2282** Nichols Sponsor: Ashby  
Relating to the dissolution of the Angelina County Water Control and Improvement District No. 3 and the territory of the Angelina County Fresh Water Supply District No. 1.

**SB 2286** Creighton Sponsor: Bell  
Relating to the powers, duties, and governance of the Westwood Magnolia Parkway Improvement District; authorizing assessments.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Sunday, May 21, 2017 - 4

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the house to inform the senate that the house has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

**HCR 146** Smithee  
Instructing the enrolling clerk of the house to make corrections in H.B. No. 1691.

**SB 47** Zaffirini Sponsor: Wu  
Relating to a study on the availability of information regarding convictions and deferred dispositions for certain misdemeanors punishable by fine only.

- SB 80** Nelson Sponsor: Price  
Relating to certain required reports prepared by state agencies and other governmental entities.  
(Amended)
- SB 440** Rodríguez Sponsor: Nevárez  
Relating to the use by certain municipalities of hotel occupancy tax revenue to improve or expand certain airports.
- SB 497** Uresti Sponsor: Wu  
Relating to the creation of an office of data analytics in the Department of Family and Protective Services.
- SB 528** Birdwell Sponsor: Meyer  
Relating to the term of a chief administrative law judge.
- SB 547** Kolkhorst Sponsor: Lambert  
Relating to the provision of services and resources to certain individuals by a state supported living center and to the creation of a schedule of support services a state supported living center may provide and procedures for establishing applicable fees for those services.
- SB 613** Whitmire Sponsor: Davis, Sarah  
Relating to services provided by the Health and Human Services Commission to sexually violent offenders who are incompetent to attend sex offender treatment.
- SB 634** Estes Sponsor: Button  
Relating to reporting requirements for certain skills development fund workforce training program providers.  
(Amended)
- SB 669** Nelson Sponsor: Zerwas  
Relating to the system for protesting or appealing certain ad valorem tax determinations; authorizing a fee.  
(Committee Substitute/Amended)
- SB 813** Hughes Sponsor: Meyer  
Relating to recovery of damages, attorney's fees, and costs related to frivolous regulatory actions by state agencies.  
(Amended)
- SB 873** Creighton Sponsor: Murphy  
Relating to the authority and liability of owners and managers of apartment houses, manufactured home rental communities, condominiums, and multiple use facilities in charging tenants for submetered and nonsubmetered master metered water and wastewater services.  
(Amended)
- SB 879** Uresti Sponsor: Rose  
Relating to a review of a person's disqualification to serve as a relative or other designated caregiver for a child.

- SB 894** Buckingham Sponsor: Muñoz, Jr.  
Relating to the Health and Human Services Commission's auditing of Medicaid managed care organizations and auditing and collection of Medicaid payments, including the commission's management of audit resources.  
(Committee Substitute/Amended)
- SB 920** Whitmire Sponsor: Lucio III  
Relating to access to a residence or former residence to retrieve personal property, including access based on danger of family violence.  
(Committee Substitute)
- SB 964** Rodríguez Sponsor: Nevárez  
Relating to the Jeff Davis County Underground Water Conservation District; authorizing a fee.
- SB 975** Birdwell Sponsor: Schubert  
Relating to the security of high-speed rail operated by a private entity.
- SB 977** Schwertner Sponsor: Ashby  
Relating to the use of state money for high-speed rail operated by a private entity.
- SB 1001** Taylor, Larry Sponsor: Paul  
Relating to vehicles exempt from vehicle safety inspections.  
(Amended)
- SB 1021** Nelson Sponsor: Price  
Relating to reports on the consolidation and certain functions of the health and human services system, including advisory committees within the system, and the re-creation of the Texas system of care framework.
- SB 1076** Schwertner Sponsor: Bonnen, Greg  
Relating to amounts charged to an enrollee in a health benefit plan for prescription drugs covered by the plan.  
(Committee Substitute/Amended)
- SB 1085** Bettencourt Sponsor: Roberts  
Relating to the certification of unopposed candidates for the board of directors of the North Harris County Regional Water Authority.
- SB 1124** Hinojosa Sponsor: Geren  
Relating to the administrative attachment of the Texas Forensic Science Commission to the Office of Court Administration of the Texas Judicial System.
- SB 1232** Huffman Sponsor: Alvarado  
Relating to inappropriate conduct between a person and an animal; creating a criminal offense.  
(Committee Substitute/Amended)
- SB 1248** Buckingham Sponsor: Lucio III  
Relating to municipal regulation of manufactured home communities.  
(Amended)
- SB 1264** Huffman Sponsor: Alvarado  
Relating to psychological counseling for certain grand jurors.
- SB 1291** Creighton Sponsor: Faircloth  
Relating to permits for oversize and overweight vehicles in a certain county.

**SB 1330** Seliger Sponsor: Landgraf  
 Relating to funding for the operations of the Texas Low-Level Radioactive Waste Disposal Compact Commission.  
 (Amended)

**SB 1430** Perry Sponsor: Lucio III  
 Relating to a requirement that the Texas Commission on Environmental Quality provide an expedited procedure for acting on certain applications for an amendment to a water right by certain applicants that use desalinated seawater.

**SB 1538** Watson Sponsor: Phelan  
 Relating to the permissible uses of the floodplain management account.  
 (Amended)

**SB 1743** Zaffirini Sponsor: Hinojosa, Gina  
 Relating to transferring the Office for the Prevention of Developmental Disabilities to The University of Texas at Austin and renaming the office the Office for Healthy Children.

**SB 2076** Rodríguez Sponsor: Pickett  
 Relating to the titling of motor vehicles; creating a criminal offense and authorizing fees.  
 (Amended)

**SB 2117** Seliger Sponsor: Price  
 Relating to the creation and operations of a health care provider participation program by the City of Amarillo Hospital District.

**SB 2150** Huffman Sponsor: Farrar  
 Relating to a revocable deed that transfers real property at the transferor's death.

**SB 2205** Hancock Sponsor: Geren  
 Relating to automated motor vehicles.

Respectfully,

/s/Robert Haney, Chief Clerk  
 House of Representatives

**(Senator Creighton in Chair)**

### **SESSION TO CONSIDER EXECUTIVE APPOINTMENTS**

The Presiding Officer announced the time had arrived to consider executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given Friday, May 19, 2017, by Senator Birdwell.

Senator Birdwell moved confirmation of the nominees reported Friday by the Committee on Nominations.

The Presiding Officer asked if there were requests to sever nominees.

There were no requests offered.

### **NOMINEES CONFIRMED**

The following nominees, as reported by the Committee on Nominations, were confirmed by the following vote: Yeas 31, Nays 0.

Judge, 451st Judicial District Court, Kendall County: William Raymond Palmer, Kendall County.

Presiding Judge, Fifth Administrative Judicial Region: Mary Koehler McDonald Medary, Nueces County.

Presiding Judge, Ninth Administrative Judicial Region: Kelly Glen Moore, Lubbock County.

Presiding Judge, Sixth Administrative Judicial Region: Stephen Bruce Ables, Kerr County.

Members, Automobile Burglary and Theft Prevention Authority: Thomas Joseph Hansen, Galveston County; Armin R. Mizani, Tarrant County.

Justice, Court of Appeals, Fifth Court of Appeals District: Jason Everett Boatright, Dallas County.

Justice, Court of Appeals, Second Court of Appeals District: Mark Timothy Pittman, Tarrant County.

Members, Credit Union Commission: Yusuf Elias Farran, El Paso County; Wesley Steven Gilman, Fort Bend County; Sherri Kay Brannon Merket, Midland County; James Lee Minge, Tarrant County; Julia Rebecca Stockstill Cobb, Harris County; Ricky Esquivel Ybarra, Travis County.

Members, Governing Board, Texas School for the Deaf: Ryan Daniel Hutchison, Travis County; David Alexander Saunders, Ellis County.

Members, Judicial Compensation Commission: Isaac M. Castro, Jones County; Alejandro Cestero, Harris County; Conrith Warren Davis, Fort Bend County; Scott Jon Salmans, McLennan County; William M. Strawn, Travis County; Frederick Carl Tate, Tarrant County.

Public Counsel, Office of Injured Employee Counsel: Jessica Corna Barta, Travis County.

Members, State Commission on Judicial Conduct: David Hall, Nolan County; David Patronella, Harris County; Tramer J. Woytek, Lavaca County; Catherine N. Wylie, Harris County.

Members, State Soil and Water Conservation Board: Christine Russ Yturria Buford, Cameron County; Carl Ray Polk, Angelina County.

Members, Texas Board of Architectural Examiners: Corbett Bearden, Travis County; Jennifer Nicole Walker, Lampasas County; Robert Scott Wetmore, Travis County.

Members, Texas Commission of Licensing and Regulation: Mike Arismendez, Lamb County; Helen L. Callier, Harris County; Richard Figueroa, Austin County.

Members, Texas Commission on Fire Protection: Carl Thomas Anderson, Galveston County; Carlos Cortez, Cameron County; Kelly Edward Doster, Collin County; Michael Paul Jones, Johnson County; Robert Lamar Moore, Brazos County; Steven C. Tull, Bosque County.

Members, Governing Board, Texas Department of Housing and Community Affairs: Paul Andrew Braden, Dallas County; James B. Goodwin, Travis County; Maria Asusena Reséndiz, Bexar County; Sharon Carlanne Thomason, Lubbock County; Leopoldo R. Vasquez, Harris County.

Members, Texas Farm and Ranch Lands Conservation Council: Leslie L. W. Kinsel, La Salle County; Natalie Cobb Koehler, Bosque County.

Members, Texas Historical Commission: Earl Paul Broussard, Travis County; Monica P. Burdette, Aransas County; Catherine Marie McKnight, Dallas County; Frank Thomas Perini, Taylor County; Daisy Sloan White, Brazos County.

Members, Texas Medical Board: Michael E. Cokinos, Harris County; Kandace B. Farmer, Denton County; Jeffrey Lee Luna, Polk County; LuAnn Roberts Morgan, Midland County; Jayaram B. Naidu, Midland County; Sherif Zaafran, Harris County.

Member, Board of Directors, Texas Mutual Insurance Company: Linda Foster-Smith, Williamson County.

Members, Texas Physician Assistant Board: Clayton Patrick Bulls, Taylor County; Jennifer Lynn Clamer, Travis County; Karrie Lynn Crosby, McLennan County; Maribel De Ponce, Hidalgo County; Melinda Ann Moore Gottschalk, Williamson County; Victor Shen-Pou Ho, Harris County; Jorge Martinez, Hidalgo County.

Member, Texas Private Security Board: Debra Gale Ulmer, Harris County.

Members, Board of Directors, Texas Public Finance Authority: Ramon Manning, Harris County; Rodney Keith Moore, Angelina County.

Members, Texas Real Estate Commission: Robert Howard Leonard, Bexar County; Rayito Odom Stephens, Brazoria County; Thomas John Turner, Travis County.

Members, Board of Directors, Texas School Safety Center: Jason Michael Burdine, Fort Bend County; Dewey Michael Cox, Hays County; Daniel Fraine Gilliam, Victoria County; Allison Elizabeth Hymel, Collin County; Andrew B. Kim, Comal County; Robert L. Long, Harris County; Cecilia Reynolds-Perez, Nueces County; Paul Allen Robbins, Nacogdoches County; Jill Michelle Tate, Tarrant County.

Member, Texas State Board of Acupuncture Examiners: Jeremy Douglas Wiseman, Travis County.

Members, Texas State Board of Pharmacy: Isaac Lee Thornsburg, Bexar County; Rebecca Tijerina, Bexar County; Jennifer Downing Yoakum, Gregg County.

Members, Texas State Board of Podiatric Medical Examiners: Leslie Campbell, Collin County; Renee Kukla Pietzsch, Williamson County; Chakilla Robinson, Fort Bend County.

Members, Texas Water Development Board: Kathleen Thea Jackson, Jefferson County; Peter Minton Lake, Travis County.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3976 ON SECOND READING**

On motion of Senator Huffman and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3976** at this time on its second reading:

**CSHB 3976**, Relating to the administration of and benefits payable under the Texas Public School Retired Employees Group Benefits Act.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 3976** (senate committee report) as follows:

(1) In SECTION 6 of the bill, in added Section 1575.153(d), Insurance Code (page 2, lines 39-40), strike "until the 2022 plan year".

(2) In SECTION 6 of the bill, in added Section 1575.153(d), Insurance Code (page 2, line 42), strike "on or before January 1, 2017".

(3) In SECTION 6 of the bill, strike added Section 1575.153(e), Insurance Code (page 2, lines 46-47) and substitute the following:

(e) The trustee shall promote enrollment in Medicaid among retirees receiving disability retirement benefits from the Teacher Retirement System of Texas.

The amendment to **CSHB 3976** was read and failed of adoption by the following vote: Yeas 10, Nays 21.

Yeas: Garcia, Hughes, Lucio, Menéndez, Nichols, Rodríguez, Uresti, Watson, West, Whitmire.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Miles, Nelson, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Zaffirini.

**(President in Chair)**

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 3976** (senate committee report) as follows:

(1) In SECTION 22 of the bill, in the recital for that section (page 5, line 37), strike "Subsection (a-1)" and substitute "Subsections (a-1) and (c)".

(2) In SECTION 22 of the bill, immediately following amended Section 1575.212(b), Insurance Code (page 5, between lines 48 and 49), insert the following new subsection:

(c) The trustee may not increase the amount of a payment collected under Subsection (a-1) unless the Legislative Budget Board approves the increase in a public hearing.

The amendment to **CSHB 3976** was read and failed of adoption by the following vote: Yeas 9, Nays 22.

Yeas: Garcia, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Hinojosa, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Zaffirini.

**CSHB 3976** was passed to third reading by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3976 ON THIRD READING**

Senator Huffman moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3976** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 1492 ON SECOND READING**

Senator Buckingham moved to suspend the regular order of business to take up for consideration **HB 1492** at this time on its second reading:

**HB 1492**, Relating to the creation of the National Museum of the Pacific War museum fund.

The motion prevailed.

Senator Garcia asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Garcia.

**HOUSE BILL 1492 ON THIRD READING**

Senator Buckingham moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1492** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Garcia.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

**HOUSE BILL 3859 ON SECOND READING**

Senator Perry moved to suspend the regular order of business to take up for consideration **HB 3859** at this time on its second reading:

**HB 3859**, Relating to protection of the rights of conscience for child welfare services providers.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

The bill was read second time.

**(Senator Hughes in Chair)**

Senator Uresti offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 3859** (senate committee report) as follows:

(1) In SECTION 1 of the bill, strike the last sentence of added Section 45.001, Human Resources Code (page 1, lines 33-36), and substitute "The provision of child welfare services should advance the best interest of the child, including placement of the child with the person best able to provide for the child's physical, psychological, and emotional needs and development."

(2) In SECTION 1 of the bill, in added Section 45.009(g), Human Resources Code (page 3, line 65) between "to" and "deprive", insert "act in a manner inconsistent with the best interest of a child or to".

The amendment to **HB 3859** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Seliger, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Taylor of Galveston, Taylor of Collin.

Senator Uresti offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **HB 3859** (senate committee printing) by striking added Section 45.002(4), Human Resources Code (page 2, lines 19-24), and substituting the following:

(4) "Child welfare services provider" means a person, other than a governmental entity, that provides, seeks to provide, or applies for or receives a contract, subcontract, grant, subgrant, or cooperative agreement to provide child welfare services and is licensed or certified to provide child welfare services by the department or an entity authorized by the department to license or certify providers. The person is not required to be engaged exclusively in child welfare services to be a child welfare services provider.

The amendment to **HB 3859** was read and failed of adoption by the following vote: Yeas 10, Nays 21.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Menéndez offered the following amendment to the bill:

### **Floor Amendment No. 3**

Amend **HB 3859** (senate committee printing) in SECTION 1 of the bill, by striking added Section 45.002(4), Human Resources Code (page 2, lines 19-24), and substituting the following:

(4) "Child welfare services provider" means a private child-care facility that does not receive federal or state funds.

The amendment to **HB 3859** was read and failed of adoption by the following vote: Yeas 10, Nays 21.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Uresti offered the following amendment to the bill:

### **Floor Amendment No. 4**

Amend **HB 3859** (senate committee report) as follows:

(1) In SECTION 1 of the bill, in added Section 45.001., Human Resources Code (page 2, lines 47 and 48), strike "facilitate, or refer a person for".

(2) In SECTION 1 of the bill, in added Section 45.001., Human Resources Code (page 2, lines 56 and 57), strike "facilitate, or refer a person for".

The amendment to **HB 3859** was read and failed of adoption by the following vote: Yeas 10, Nays 21.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Garcia offered the following amendment to the bill:

### **Floor Amendment No. 5**

Amend **HB 3859** (senate committee printing) on page 2, between lines 62 and 63, by inserting the following:

Sec. 45.0041. CHILD'S RIGHTS PROTECTED; EDUCATION. (a) A child who is in the conservatorship of the department may object to a child welfare services provider's decision to provide the child with a religious education or to enroll the child in a private or parochial school if the child is 12 years of age or older and the religious education or private or parochial school education conflicts with the child's sincerely held religious beliefs.

(b) If the child objects to the religious education or private or parochial school education as authorized by Subsection (a), the child is not required to participate in the religious education or to attend a private or parochial school.

(c) The child welfare services provider shall inform the child of the child's rights under this section.

The amendment to **HB 3859** was read and failed of adoption by the following vote: Yeas 10, Nays 21.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Rodríguez offered the following amendment to the bill:

### **Floor Amendment No. 6**

Amend **HB 3859** (senate committee printing) in SECTION 1 of the bill, in added Section 45.009(f), Human Resources Code (page 3, line 63), by striking "or national origin" and substituting "national origin, sex, religion, sexual orientation, disability, or gender identity".

The amendment to **HB 3859** was read and failed of adoption by the following vote: Yeas 10, Nays 21.

Yeas: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

**HB 3859** was passed to third reading by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

**MESSAGE FROM THE GOVERNOR**

The following Message from the Governor was read and was filed with the Secretary of the Senate:

STATE OF TEXAS  
OFFICE OF THE GOVERNOR

MESSAGE

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE EIGHTY-FIFTH TEXAS LEGISLATURE, REGULAR SESSION:

I, GREG ABBOTT, Governor of the State of Texas, pursuant to Article III, Section 5, of the Texas Constitution and by this special message, do hereby submit the following emergency matter for immediate consideration to the Senate and House of Representatives of the 85th Legislature, now convened:

Senate Bill No. 5 from the 85th Texas Legislature, Regular Session, by Huffman relating to requiring a voter to present proof of identification; providing a criminal penalty.

Respectfully submitted,

/s/Greg Abbott  
Governor

Austin, Texas  
May 21, 2017

**HOUSE BILL 1494 ON SECOND READING**

Senator Kolkhorst moved to suspend the regular order of business to take up for consideration **HB 1494** at this time on its second reading:

**HB 1494**, Relating to the use of municipal hotel occupancy tax revenue by certain municipalities.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Birdwell, Buckingham, Campbell, Creighton, Estes, Garcia, Hancock, Hinojosa, Huffman, Hughes, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, Taylor of Galveston, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Burton, Hall, Huffines, Taylor of Collin.

The bill was read second time and was passed to third reading by the following vote: Yeas 26, Nays 5. (Same as previous roll call)

**HOUSE BILL 1494 ON THIRD READING**

Senator Kolkhorst moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1494** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Birdwell, Buckingham, Campbell, Creighton, Estes, Garcia, Hancock, Hinojosa, Huffman, Hughes, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, Taylor of Galveston, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Burton, Hall, Huffines, Taylor of Collin.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 5. (Same as previous roll call)

**HOUSE BILL 2750 REREFERRED**  
**(Motion In Writing)**

Senator West submitted a Motion In Writing requesting that **HB 2750** be withdrawn from the Committee on Business and Commerce and rereferred to the Committee on Intergovernmental Relations.

The Motion In Writing was read and prevailed without objection.

**HOUSE BILL 1917 ON SECOND READING**

Senator Schwertner moved to suspend the regular order of business to take up for consideration **HB 1917** at this time on its second reading:

**HB 1917**, Relating to contract requirements for prescription drug benefits provided by Medicaid managed care organizations.

The motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Birdwell, Buckingham, Campbell, Creighton, Garcia, Hinojosa, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Burton, Estes, Hall, Hancock, Taylor of Galveston, Taylor of Collin.

The bill was read second time and was passed to third reading by the following vote: Yeas 24, Nays 7. (Same as previous roll call)

**HOUSE BILL 1917 ON THIRD READING**

Senator Schwertner moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1917** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Birdwell, Buckingham, Campbell, Creighton, Estes, Garcia, Hinojosa, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Burton, Hall, Hancock, Taylor of Galveston, Taylor of Collin.

The bill was read third time and was passed by the following vote: Yeas 24, Nays 7.

Yeas: Birdwell, Buckingham, Campbell, Creighton, Garcia, Hinojosa, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Perry, Rodriguez, Schwertner, Seliger, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Burton, Estes, Hall, Hancock, Taylor of Galveston, Taylor of Collin.

### **HOUSE BILL 505 ON SECOND READING**

On motion of Senator Taylor of Collin and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 505** at this time on its second reading:

**HB 505**, Relating to restrictions on lobbyist expenditures from certain political contributions.

The bill was read second time and was passed to third reading by the following vote: Yeas 31, Nays 0.

### **HOUSE BILL 505 ON THIRD READING**

Senator Taylor of Collin moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 505** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

### **HOUSE BILL 1934 ON SECOND READING**

On motion of Senator Campbell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1934** at this time on its second reading:

**HB 1934**, Relating to temporary certification of an educator from outside the state who is the spouse of an active duty military service member.

The bill was read second time.

Senator Campbell offered the following committee amendment to the bill:

#### **Committee Amendment No. 1**

Amend **HB 1934** (house engrossed version) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. The State Board for Educator Certification is required to implement this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the board may, but is not required to, implement this Act using other appropriations available for the purpose.

The amendment to **HB 1934** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

**HB 1934** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

### **HOUSE BILL 1934 ON THIRD READING**

Senator Campbell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1934** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**(President in Chair)**

### **HOUSE BILL 51 ON SECOND READING**

Senator Hinojosa moved to suspend the regular order of business to take up for consideration **HB 51** at this time on its second reading:

**HB 51**, Relating to regulation of the commercial oyster industry in this state; increasing criminal penalties; authorizing a fee.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Buckingham, Creighton, Estes, Garcia, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Perry, Rodríguez, Schwertner, Seliger, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Burton, Campbell, Hall, Hancock, Hughes, Nichols, Taylor of Galveston, Taylor of Collin.

The bill was read second time.

Senator Kolkhorst offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 51** (senate committee report) as follows:

(1) In the recital to SECTION 3 of the bill (page 2, lines 9-10), strike "(e-2) and (e-3)" and substitute "(e-2), (e-3), (e-4), and (e-5)".

(2) In SECTION 3 of the bill, strike added Sections 76.118(e-2) and (e-3), Parks and Wildlife Code (page 2, line 16 through page 2, line 35), and substitute the following:

(e-2) The punishment for an offense otherwise punishable under Subsection (a) is a Class B Parks and Wildlife misdemeanor if it is shown on the trial of the offense that:

(1) the defendant is the captain of a commercial oyster boat or a member of the crew of a commercial oyster boat;

(2) the provision or regulation violated relates to oyster size; and

(3) the defendant has previously been convicted at least twice for a violation of a provision or regulation relating to oyster size.

(e-3) The punishment for an offense otherwise punishable under Subsection (a) is a Class C Parks and Wildlife misdemeanor, with an attendant license suspension under Section 76.1181, if it is shown on the trial of the offense that:

(1) the defendant is the captain of a commercial oyster boat or a member of the crew of a commercial oyster boat;

(2) the provision or regulation violated relates to oyster size and the defendant was in possession of a cargo of oysters in which 30 percent or more of the oysters measured less than three inches in length along an imaginary straight line through the long axis of the shell; and

(3) the defendant has previously been convicted one time for a violation of a provision or regulation relating to oyster size and the defendant was in possession of a cargo of oysters in which 30 percent or more of the oysters measured less than three inches in length along an imaginary straight line through the long axis of the shell.

(e-4) The punishment for an offense otherwise punishable under Subsection (a) is a Class B Parks and Wildlife misdemeanor, with an attendant license suspension under Section 76.1181, if it is shown on the trial of the offense that:

(1) the defendant is the captain of a commercial oyster boat or a member of the crew of a commercial oyster boat;

(2) the provision or regulation violated relates to oyster size and the defendant was in possession of a cargo of oysters in which 30 percent or more of the oysters measured less than three inches in length along an imaginary straight line through the long axis of the shell; and

(3) the defendant has previously been convicted at least two times for a violation of a provision or regulation relating to oyster size and the defendant during both offenses was in possession of a cargo of oysters in which 30 percent or more of the oysters measured less than three inches in length along an imaginary straight line through the long axis of the shell.

(e-5) It is a defense to prosecution under Subsection (a) for a violation of a statute or regulation adopted relating to oyster size that the defendant is a person who purchased oysters from the captain or a member of the crew of a commercial oyster boat and the purchaser was in possession of a cargo of oysters in which less than 30 percent of the oysters were less than three inches in length along an imaginary straight line through the long axis of the shell.

(3) In SECTION 4 of the bill, in added Section 76.1181(e), Parks and Wildlife Code (page 2, line 62), between "for" and "an", insert "the third offense within five years of the commission of".

(4) In SECTION 4 of the bill, in added Section 76.1181(b), Parks and Wildlife Code (page 2, line 43), between "(e-3)" and the underlined comma, insert "or (e-4)".

(5) In SECTION 4 of the bill, in added Section 76.1181(c), Parks and Wildlife Code (page 2, line 46), between "(e-3)" and the underlined comma, insert "or (e-4)".

(6) In SECTION 4 of the bill, in added Section 76.1181(d), Parks and Wildlife Code (page 2, line 53), between "(e-3)" and the underlined comma, insert "or (e-4)".

(7) In SECTION 4 of the bill, in added Section 76.1181(d-1), Parks and Wildlife Code (page 2, line 59), between "(e-3)" and the underlined comma, insert "or (e-4)".

(8) In SECTION 4 of the bill, in added Section 76.1181(e), Parks and Wildlife Code (page 2, line 63), strike "(e-3)" and substitute ", for a violation of a provision or regulation relating to oyster size in which the conviction was for possession of a cargo of oysters in which 30 percent or more of the oysters measured less than three inches in length along an imaginary straight line through the long axis of the shell".

(9) In SECTION 5 of the bill, in added Section 76.119(d), Parks and Wildlife Code (page 3, lines 24 and 25), strike ", 76.112, or 76.116" and substitute "or 76.112".

The amendment to **HB 51** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

**HB 51** as amended was passed to third reading by the following vote: Yeas 21, Nays 10.

Yeas: Buckingham, Creighton, Estes, Garcia, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Perry, Rodríguez, Schwertner, Seliger, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Burton, Campbell, Hall, Hancock, Hughes, Nichols, Taylor of Galveston, Taylor of Collin.

### HOUSE BILL 51 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 51** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Bettencourt, Buckingham, Creighton, Estes, Garcia, Hall, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, Taylor of Collin, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Birdwell, Burton, Campbell, Hancock, Hughes, Taylor of Galveston.

The bill was read third time and was passed by the following vote: Yeas 21, Nays 10.

Yeas: Buckingham, Creighton, Estes, Garcia, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Perry, Rodríguez, Schwertner, Seliger, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Burton, Campbell, Hall, Hancock, Hughes, Nichols, Taylor of Galveston, Taylor of Collin.

### COMMITTEE SUBSTITUTE HOUSE BILL 2691 ON SECOND READING

Senator Huffman moved to suspend the regular order of business to take up for consideration **CSHB 2691** at this time on its second reading:

**CSHB 2691**, Relating to certain election practices and procedures.

The motion prevailed.

Senator Rodríguez asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Huffman offered the following amendment to the bill:

### Floor Amendment No. 1

Amend **CSHB 2691** (senate committee printing) as follows:

(1) In the recital to SECTION 7 of the bill (page 2, line 64), strike ", (c), and (d)", and substitute "and (c)".

(2) In SECTION 7 of the bill in amended Section 43.007(c), Election Code (page 3, lines 23 through 25), strike "voting system [direct recording electronic voting] units used, including any type of voting system unit described by Subsection (d)(4)," and substitute "direct recording electronic voting units".

(3) In SECTION 7 of the bill, strike amended Section 43.007(d), Election Code (page 3, lines 28 through 41).

The amendment to **CSHB 2691** was read and was adopted by the following vote: Yeas 19, Nays 12.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hancock, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Zaffirini.

Nays: Garcia, Hall, Hinojosa, Huffines, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire.

Senator Huffman offered the following amendment to the bill:

### Floor Amendment No. 2

Amend **CSHB 2691** (senate committee printing) by adding the following appropriately numbered SECTIONS and renumbering the SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 42.002(a), Election Code, is amended to read as follows:

(a) The county election precincts are the election precincts for the following elections:

- (1) the general election for state and county officers;
- (2) a special election ordered by the governor;
- (3) a primary election;
- (4) a countywide election ordered by the commissioners court, county judge, or other county authority, except an election subject to Section 42.062(2); and
- (5) as provided by Section 42.0621, any other election held by a political subdivision on the November [A] uniform election date.

SECTION \_\_\_\_\_. The heading to Section 42.0621, Election Code, is amended to read as follows:

Sec. 42.0621. PRECINCTS FOR ELECTIONS HELD ON THE NOVEMBER [A] UNIFORM ELECTION DATE.

SECTION \_\_\_\_\_. Section 42.0621(a), Election Code, is amended to read as follows:

(a) In an election held on the November [a] uniform election date, the political subdivisions to which Section 42.002(a)(5) applies shall use the regular county election precincts.

The amendment to **CSHB 2691** was read.

Senator Huffman temporarily withdrew Floor Amendment No. 2.

Senator Huffman offered the following amendment to the bill:

### **Floor Amendment No. 3**

Amend **CSHB 2691** (senate committee printing) as follows:

(1) In SECTION 10 of the bill in added Section 85.0651, Election Code (page 4, line 23) strike "MOVABLE" and substitute "TEMPORARY BRANCH".

(2) In SECTION 10 of the bill in added Section 85.0651(a), Election Code (page 4, line 25) strike "movable" and substitute "temporary branch".

(3) In SECTION 10 of the bill in added Section 85.0651(b), Election Code (page 4, line 28) strike "movable" and substitute "temporary branch".

The amendment to **CSHB 2691** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

Senator Rodríguez offered the following amendment to the bill:

### **Floor Amendment No. 4**

Amend **CSHB 2691** (senate committee printing) in SECTION 10 of the bill, immediately following added Section 85.0651, Election Code (page 4, between lines 30 and 31), by inserting the following:

(c) This section does not apply to a general election for state and county officers.

The amendment to **CSHB 2691** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4.

Senator Huffman offered the following amendment to the bill:

### **Floor Amendment No. 5**

Amend **CSHB 2691** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the SECTIONS of the bill accordingly:

SECTION \_\_\_\_. Subchapter A, Chapter 31, Election Code, is amended by adding Section 31.013 to read as follows:

Sec. 31.013. MOBILE LOCATIONS FOR OBTAINING IDENTIFICATION.

(a) The secretary of state shall establish a program using mobile units to provide election identification certificates to voters for the purpose of satisfying the requirements of Section 63.001(b). A mobile unit may be used at special events or at the request of a constituent group.

(b) In establishing the program, the secretary of state shall consult with the Department of Public Safety on the creation of the program, security relating to the issuance of an election identification certificate, best practices in issuing an election identification certificate, and equipment required to issue an election identification certificate.

(c) The secretary of state may not charge a fee to a group that requests a mobile unit established under this section.

(d) If the secretary of state cannot ensure the required security or other necessary elements of the program, the secretary of state may deny a request for a mobile unit established under this section.

(e) The secretary of state shall adopt rules necessary for the implementation of this section.

SECTION \_\_\_\_ . Section 63.001, Election Code, is amended by amending Subsections (b), (d), and (e) and adding Subsection (i) to read as follows:

(b) Except as provided by Subsection (h), on offering to vote, a voter must present to an election officer at the polling place:

(1) one form of photo identification listed in ~~[described by]~~ Section 63.0101(a); or

(2) one form of identification listed in Section 63.0101(b) accompanied by the declaration described by Subsection (i) ~~[63.0101].~~

(d) If, as determined under Subsection (c), the voter's name is on the precinct list of registered voters and the voter's identity can be verified from the documentation presented under Subsection (b), the voter shall be accepted for voting. An election officer may not question the reasonableness of an impediment sworn to by a voter in a declaration described by Subsection (i).

(e) On accepting a voter, an election officer shall indicate beside the voter's name on the list of registered voters that the voter is accepted for voting. If the voter executes a declaration of reasonable impediment to meet the requirement for identification under Subsection (b), the election officer must affix the voter's voter registration number to the declaration either in numeric or bar code form.

(i) If the requirement for identification prescribed by Subsection (b)(1) is not met, an election officer shall notify the voter that the voter may be accepted for voting if the voter meets the requirement for identification prescribed by Subsection (b)(2) and executes a declaration declaring the voter has a reasonable impediment to meeting the requirement for identification prescribed by Subsection (b)(1). A person is subject to prosecution for perjury under Chapter 37, Penal Code, or Section 63.0013 for a false statement or false information on the declaration. The secretary of state shall prescribe the form of the declaration. The form shall include:

(1) a notice that a person is subject to prosecution for perjury under Chapter 37, Penal Code, or Section 63.0013 for a false statement or false information on the declaration;

(2) a statement that the voter swears or affirms that the information contained in the declaration is true, that the person described in the declaration is the same person appearing at the polling place to sign the declaration, and that the voter faces a reasonable impediment to procuring the identification prescribed by Subsection (b)(1);

(3) a place for the voter to indicate one of the following impediments:

(A) lack of transportation;

(B) lack of birth certificate or other documents needed to obtain the identification prescribed by Subsection (b)(1);

(C) work schedule;

(D) lost or stolen identification;

(E) disability or illness;

(F) family responsibilities; and

(G) the identification prescribed by Subsection (b)(1) has been applied for but not received;

(4) a place for the voter to sign and date the declaration;

(5) a place for the election judge to sign and date the declaration;

(6) a place to note the polling place at which the declaration is signed; and

(7) a place for the election judge to note which form of identification

prescribed by Subsection (b)(2) the voter presented.

SECTION \_\_\_\_. Chapter 63, Election Code, is amended by adding Section 63.0013 to read as follows:

Sec. 63.0013. FALSE STATEMENT ON DECLARATION OF REASONABLE IMPEDIMENT. (a) A person commits an offense if the person intentionally makes a false statement or provides false information on a declaration executed under Section 63.001(i).

(b) An offense under this section is a felony of the third degree.

SECTION \_\_\_\_. Section 63.004(a), Election Code, is amended to read as follows:

(a) The secretary of state may prescribe forms that combine the poll list, the signature roster, or any other form used in connection with the acceptance of voters at polling places with each other or with the list of registered voters. The secretary shall prescribe any special instructions necessary for using the combination forms. The combination forms must include space for an election officer to indicate whether a voter executed a declaration of reasonable impediment under Section 63.001(i).

SECTION \_\_\_\_. Section 63.0101, Election Code, is amended to read as follows:

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. (a) The following documentation is an acceptable form of photo identification under this chapter:

(1) a driver's license, election identification certificate, or personal identification card issued to the person by the Department of Public Safety that has not expired or that expired no earlier than two years [~~60 days~~] before the date of presentation;

(2) a United States military identification card that contains the person's photograph that has not expired or that expired no earlier than two years [~~60 days~~] before the date of presentation;

(3) a United States citizenship certificate issued to the person that contains the person's photograph;

(4) a United States passport issued to the person that has not expired or that expired no earlier than two years [~~60 days~~] before the date of presentation; or

(5) a license to carry a handgun issued to the person by the Department of Public Safety that has not expired or that expired no earlier than two years [~~60 days~~] before the date of presentation.

(b) The following documentation is acceptable as proof of identification under this chapter:

(1) a government document that shows the name and address of the voter, including the voter's voter registration certificate;

(2) one of the following documents that shows the name and address of the voter:

(A) a copy of a current utility bill;

(B) a bank statement;

(C) a government check; or

(D) a paycheck; or

(3) a certified copy of a domestic birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity.

(c) A person 70 years of age or older may use a form of identification listed in Subsection (a) that has expired for the purposes of voting if the identification is otherwise valid.

SECTION \_\_\_\_. Section 272.011(b), Election Code, is amended to read as follows:

(b) The secretary of state shall prepare the translation for election materials required to be provided in a language other than English or Spanish for the following state prescribed voter forms:

(1) voter registration application form required by Section 13.002;

(2) the confirmation form required by Section 15.051;

(3) the voting instruction poster required by Section 62.011;

(4) the reasonable impediment declaration required by Section 63.001(b);

(5) the statement of residence form required by Section 63.0011;

(6) [~~5~~] the provisional ballot affidavit required by Section 63.011;

(7) [~~6~~] the application for a ballot by mail required by Section 84.011;

(8) [~~7~~] the carrier envelope and voting instructions required by Section 86.013; and

(9) [~~8~~] any other voter forms that the secretary of state identifies as frequently used and for which state resources are otherwise available.

SECTION \_\_\_\_. Section 521A.001(a), Transportation Code, is amended to read as follows:

(a) The department shall issue an election identification certificate to a person who states that the person is obtaining the certificate for the purpose of satisfying Section 63.001(b), Election Code, and does not have another form of identification described by Section 63.0101(a) [~~63.0101~~], Election Code, and:

(1) who is a registered voter in this state and presents a valid voter registration certificate; or

(2) who is eligible for registration under Section 13.001, Election Code, and submits a registration application to the department.

The amendment to **CSHB 2691** was read and was adopted by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Senator Huffman withdrew Floor Amendment No. 2.

**CSHB 2691** as amended was passed to third reading by the following vote: Yeas 20, Nays 11.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Sunday, May 21, 2017 - 5

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the house to inform the senate that the house has taken the following action:

THE HOUSE HAS CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

**HB 62** (123 Yeas, 17 Nays, 2 Present, not voting)

**HB 804** (138 Yeas, 0 Nays, 2 Present, not voting)

**HB 961** (107 Yeas, 26 Nays, 2 Present, not voting)

**HB 1178** (133 Yeas, 7 Nays, 2 Present, not voting)

**HB 1468** (133 Yeas, 7 Nays, 2 Present, not voting)

**HB 1512** (136 Yeas, 6 Nays, 2 Present, not voting)

**HB 1859** (120 Yeas, 11 Nays, 2 Present, not voting)

**HB 1891** (138 Yeas, 0 Nays, 2 Present, not voting)

**HB 2115** (138 Yeas, 0 Nays, 2 Present, not voting)

**HB 2207** (131 Yeas, 8 Nays, 2 Present, not voting)

**HB 2413** (131 Yeas, 8 Nays, 2 Present, not voting)

**HB 2567** (134 Yeas, 2 Nays, 2 Present, not voting)

**HB 2700** (138 Yeas, 0 Nays, 2 Present, not voting)

**HB 2761** (128 Yeas, 9 Nays, 3 Present, not voting)

**HB 2999** (138 Yeas, 0 Nays, 2 Present, not voting)

**HB 3177** (136 Yeas, 0 Nays, 2 Present, not voting)

**HB 3484** (126 Yeas, 11 Nays, 2 Present, not voting)

**HB 4054** (140 Yeas, 0 Nays, 2 Present, not voting)

**HB 4056** (134 Yeas, 4 Nays, 2 Present, not voting)

THE HOUSE HAS REFUSED TO CONCUR IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**HB 2995** (non-record vote)

House Conferees: Ashby - Chair/Clardy/Kacal/King, Ken/Nevárez

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

**HB 2432**

Pursuant to Rule 13, Section 5A of the Rules of the Texas House, 85th Legislature, the house hereby returns house bill 2432 to the senate for further consideration due to non germane amendments.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**(Senator Campbell in Chair)**

**COMMITTEE SUBSTITUTE  
HOUSE BILL 21 ON SECOND READING**

Senator Taylor of Galveston moved to suspend the regular order of business to take up for consideration **CSHB 21** at this time on its second reading:

**CSHB 21**, Relating to the funding of primary and secondary education.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

The bill was read second time.

Senator Taylor of Galveston offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 21** (senate committee report) by striking all below the enacting clause and substituting the following:

SECTION 1. Effective September 1, 2018, Section 12.106, Education Code, is amended by amending Subsection (a-1) and adding Subsection (d) to read as follows:

(a-1) In determining funding for an open-enrollment charter school under Subsection (a):

(1) [5] adjustments under Sections 42.102, [42.103,] 42.104, and 42.105 are based on the average adjustment for the state; and

(2) the adjustment under Section 42.103 is based on the average adjustment for the state that would have been provided under that section as it existed on January 1, 2018.

(d) In addition to other amounts provided by this section, a charter holder is entitled to receive, for the open-enrollment charter school, funding per student in average daily attendance in an amount equal to the guaranteed level of state and local funds per student per cent of tax effort under Section 46.032(a) multiplied by the lesser of:

(1) the state average interest and sinking fund tax rate imposed by school districts for the current year; or

(2) a rate that would result in a total amount to which charter schools are entitled under this subsection for the current year equal to \$50 million.

SECTION 2. Subchapter A, Chapter 29, Education Code, is amended by adding Section 29.026 to read as follows:

Sec. 29.026. GRANT PROGRAM PROVIDING SERVICES TO STUDENTS WITH AUTISM. (a) The commissioner shall establish a program to award grants to school districts and open-enrollment charter schools that provide innovative services to students with autism.

(b) A school district, including a school district acting through a district charter issued under Subchapter C, Chapter 12, and an open-enrollment charter school, including a charter school that primarily serves students with disabilities, as provided under Section 12.1014, may apply for a grant under this section.

(c) A program is eligible for a grant under this section if:

(1) the program operates as an independent campus or a separate program from the campus in which the program is located, with a separate budget;

(2) the program incorporates:

(A) evidence-based and research-based design;

(B) the use of empirical data on student achievement and improvement;

(C) parental support and collaboration;

(D) the use of technology;

(E) meaningful inclusion; and

(F) the ability to replicate the program for students statewide;

(3) the program gives priority for enrollment to students with autism;

(4) the program limits enrollment and services to students who are:

(A) at least three years of age; and

(B) younger than nine years of age or are enrolled in the third grade or a lower grade level; and

(5) the program allows a student who turns nine years of age or older during a school year to remain in the program until the end of that school year.

(d) A school district or open-enrollment charter school may not:

(1) charge a fee for the program, other than those authorized by law for students in public schools;

(2) require a parent to enroll a child in the program;

(3) allow an admission, review, and dismissal committee to place a student in the program without the written consent of the student's parent or guardian; or

(4) continue the placement of a student in the program after the student's parent or guardian revokes consent, in writing, to the student's placement in the program.

(e) A program under this section may:

(1) alter the length of the school day or school year or the number of minutes of instruction received by students;

(2) coordinate services with private or community-based providers;

(3) allow the enrollment of students without disabilities or with other disabilities, if approved by the commissioner; and

(4) adopt staff qualifications and staff to student ratios that differ from the applicable requirements of this title.

(f) The commissioner shall adopt rules creating an application and selection process for grants awarded under this section.

(g) The commissioner shall create an external panel of stakeholders, including parents of students with disabilities, to provide assistance in the selection of applications for the award of grants under this section.

(h) The commissioner shall award grants to fund not more than 10 programs that meet the eligibility criteria under Subsection (c). In selecting programs, the commissioner shall prioritize programs that are collaborations between multiple school districts, multiple charter schools, or school districts and charter schools. The selected programs must reflect the diversity of this state.

(i) The commissioner shall select programs and award grant funds to those programs beginning in the 2018-2019 school year. The selected programs are to be funded for five years.

(j) A grant awarded to a school district or open-enrollment charter school under this section is in addition to the Foundation School Program funds that the district or charter school is otherwise entitled to receive.

(k) The commissioner shall set aside an amount not to exceed \$20 million from the total amount of funds appropriated to the Foundation School Program for the 2018-2019 fiscal biennium to fund grants under this section. The commissioner shall use \$10 million for the purposes of this section for each school year in the state fiscal biennium. A grant recipient may not receive more than \$1 million for the 2018-2019 fiscal biennium. The commissioner shall reduce each district's and charter school's allotment proportionally to account for funds allocated under this section.

(l) The commissioner and any program selected under this section may accept gifts, grants, and donations from any public or private source, person, or group to implement and administer the program. The commissioner and any program selected under this section may not require any financial contribution from parents to implement and administer the program.

(m) The commissioner may consider a student with autism who is enrolled in a program funded under this section as funded in a mainstream placement, regardless of the amount of time the student receives services in a regular classroom setting.

(n) Not later than December 31, 2021, the commissioner shall publish a report on the grant program established under this section. The report must include:

(1) recommendations for statutory or funding changes necessary to implement successful innovations in the education of students with autism; and

(2) data on the academic and functional achievements of students enrolled in a program that received a grant under this section.

(o) This section expires September 1, 2024.

SECTION 3. Chapter 29, Education Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM

Sec. 29.351. DEFINITIONS. In this subchapter:

(1) "Account" means an education savings account established under the program.

(2) "Child with a disability" means a child who is:

(A) eligible to participate in a school district's special education program under Section 29.003; or

(B) covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

(3) "Curriculum" means a complete course of study for a particular content area or grade level.

(4) "Financial institution" means a bank, credit union, savings bank, or savings and loan association organized under the laws of this state, the laws of another state, or federal law that has its main office or a branch office in this state. The term does not include any institution the deposits of which are not insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(5) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003.

(6) "Parent" means a resident of this state who is a natural or adoptive parent, managing or possessory conservator, legal guardian, custodian, or other person with legal authority to act on behalf of a child.

(7) "Program" means the education savings account program established under this subchapter.

(8) "Program participant" means a child and a parent of a child enrolled in the program.

Sec. 29.352. PURPOSES. The purposes of the education savings account program are to:

(1) improve public schools and overall academic performance;

(2) promote efficiency;

(3) promote and preserve the liberties and rights of the people; and

(4) increase parental options.

Sec. 29.353. ESTABLISHMENT OF PROGRAM. (a) The comptroller shall establish and administer an education savings account program to provide funding for certain education-related expenses of eligible children.

(b) The comptroller, with cooperation from the agency, shall ensure that information about the program is readily available to the public through various sources, including the comptroller's and the agency's respective Internet websites. The information made available through the comptroller's Internet website must include a notice that:

(1) states that a private school is not subject to laws regarding the provision of educational services in the same manner as a public school, and a child with a disability attending a private school may not receive the services a child with a disability attending a public school is entitled to receive under federal and state law; and

(2) provides information regarding rights to which a child with a disability is entitled under federal and state law if the child attends a public school, including:

(A) rights provided under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.), including:

(i) an individualized education program;

(ii) educational services provided in the least restrictive environment;

(iii) instruction from certified teachers;

(iv) due process hearings to ensure proper and full implementation of an individualized education program;

(v) transition and planning services; and

(vi) supplementary aids and services;

(B) rights provided under Subchapter A; and

(C) other rights provided under federal or state law.

Sec. 29.3531. EDUCATION SAVINGS ACCOUNT PROGRAM FUND.

(a) The education savings account program fund is an account in the general revenue fund to be administered by the comptroller.

(b) The fund is composed of:

(1) general revenue transferred to the fund;

(2) money appropriated to the fund;

(3) gifts, grants, and donations received under Section 29.371; and

(4) any other money available for purposes of the program.

(c) Money in the fund may be appropriated only to the comptroller for purposes of making payments to program participants and administering the program under this subchapter.

Sec. 29.354. ELIGIBLE CHILD. (a) A child is eligible to participate in the program if the child:

(1) is a child with a disability;

(2) is eligible to attend a public school under Section 25.001; and

(3) was enrolled in a public school in this state during the entire preceding academic year.

(b) A child who establishes eligibility under this section may participate in the program until the earliest of the following dates:

(1) the date that is three months after the date on which the child graduates from high school;

(2) the date on which the child is no longer eligible to attend a public school under Section 25.001;

(3) the date on which the child enrolls in a public school, including an open-enrollment charter school; or

(4) the date on which the child is declared ineligible for the program by the comptroller under this subchapter.

(c) Notwithstanding Subsection (b), the comptroller shall establish guidelines for, in the least disruptive manner possible:

(1) a child participating in the program to cease participation and enroll in a public school, including an open-enrollment charter school; and

(2) a child who previously participated in the program and subsequently enrolled in a public school, including an open-enrollment charter school, to resume participation in the program.

Sec. 29.355. ENROLLMENT IN PROGRAM. (a) A parent of an eligible child may enroll the child in the program for the following school year.

(b) The comptroller shall by rule create an enrollment form for the program and make the enrollment form readily available to interested parents through various sources, including the comptroller's Internet website. An enrollment form for the program must be submitted to the comptroller electronically.

(c) The comptroller shall post on the comptroller's Internet website and provide to each parent who submits an enrollment form a publication that describes the operation of the program, including:

(1) expenses allowed under the program under Section 29.357;

(2) expense reporting requirements; and

(3) a description of the responsibilities of program participants and the duties of the comptroller under this subchapter.

(d) The comptroller shall provide to each parent who submits an enrollment form a written copy of the notice described by Section 29.353(b). Before the parent may receive funding under the program, the parent must sign and return the notice to the comptroller.

Sec. 29.356. PARTICIPATION IN PROGRAM. (a) To receive funding under the program, a parent of an eligible child must agree to:

(1) spend funds received through the program only for expenses allowed under Section 29.357;

(2) notify the comptroller if the child enrolls in a public school, including an open-enrollment charter school, not later than the 30th day after the date of enrollment; and

(3) inform the comptroller if the child graduates from high school.

(b) The parent of a child participating in the program is the trustee of the child's account.

(c) The comptroller shall provide annually to each program participant the publication provided under Section 29.355(c).

Sec. 29.357. APPROVED EDUCATION-RELATED EXPENSES. (a) Funds received under the program may be used only for the following expenses incurred by a program participant:

(1) tuition and fees:

(A) at a private school accredited by an organization that is recognized by the Texas Private School Accreditation Commission;

(B) at an institution of higher education or a private or independent institution of higher education; or

(C) for an online educational course or program;

(2) the purchase of textbooks or other instructional materials required by a school, institution, course, or program described by Subdivision (1) in which the child is enrolled;

(3) fees for classes or other educational services provided by a public school, if the classes or services do not qualify the child to be included in the school's average daily attendance;

(4) fees for services provided by a private tutor or teaching service;

(5) costs of transportation to and from school, not to exceed \$500 per year;

(6) fees for educational therapies or services provided by a practitioner or provider;

(7) costs of computer hardware and software and other technological devices prescribed by a physician to facilitate a child's education, not to exceed in any year 10 percent of the total amount paid to the program participant's account that year;

(8) fees for a nationally norm-referenced achievement test or examination, an assessment instrument adopted by the agency under Section 39.023, an advanced placement test or similar examination, or any examination related to college or university admission;

(9) fees for the management of the participant's account charged by a financial institution; and

(10) costs of breakfast or lunch provided to a child during the school day by a private school.

(b) Expenses allowed under Subsection (a) do not include expenses for:

(1) consumable supplies, including paper, pens, pencils, folders, and notebooks;

(2) food, other than breakfast or lunch as authorized under Subsection (a)(10); or

(3) before-school or after-school child care and child care during school holidays and vacations.

(c) An education service provider or vendor of educational products must provide a program participant with a receipt for each expense allowed under Subsection (a) charged by the provider or vendor to the participant.

(d) The content, subject to Section 29.364(c), or religious nature of a product or service may not be considered in determining whether a payment for the product or service is an expense allowed under Subsection (a).

(e) A finding that a program participant used funds distributed under the program to pay for an expense not allowed under Subsection (a) does not affect the validity of any payment made by the participant for an expense that is allowed under that subsection.

Sec. 29.358. AMOUNT OF PAYMENT; FINANCING. (a) A parent of an eligible child shall receive each year that the child participates in the program a payment from the state to the child's account in an amount that is equal to 90 percent of the state average maintenance and operations expenditures per student for the preceding state fiscal year.

(b) In addition to any funding the district receives under Chapter 42, for each child participating in the program, the school district the child would otherwise attend is entitled to receive for the first year in which the child participates in the program an amount equal to five percent of the state average maintenance and operations expenditures per student for the preceding state fiscal year.

(c) For the first year a child participates in the program, the child is included in the weighted average daily attendance of the school district the child would otherwise attend for purposes of determining the district's equalized wealth level under Chapter 41.

(d) Any funds remaining in a child's account at the end of a fiscal year are carried forward to the next fiscal year unless another provision of this subchapter mandates the closure of the account.

(e) The parent of a child participating in the program may make payments for the expenses of educational programs, services, and products not covered by funds in the child's account.

(f) A payment under Subsection (a) may not be financed using federal funds or money appropriated from the permanent school fund or the available school fund.

Sec. 29.359. ADMINISTRATION OF ACCOUNTS. (a) The comptroller may contract with one or more financial institutions to establish and manage an account for each child participating in the program. A program participant must be able to access the participant's account by using an online or electronic transfer payment service.

(b) The comptroller shall make quarterly payments to each program participant's account in equal amounts, with the first payment for each school year made on September 1 and the remaining payments made on or before the 15th day of November, February, and May.

(c) The comptroller may deduct an amount from each quarterly payment to a program participant's account to cover the comptroller's cost of administering the program. The amount deducted may not exceed five percent of the payment.

(d) Not later than 30 days after the end of each fiscal year, the comptroller shall reconcile payments made to and from all accounts under the program.

(e) On the date on which a child who participated in the program is no longer eligible to participate in the program under Section 29.354(b), the child's account is closed and any remaining funds are returned to the state for deposit in the education savings account program fund.

(f) The comptroller may contract with a private entity to administer all or any part of the program.

Sec. 29.360. RANDOM AUDITING OF ACCOUNTS. (a) The comptroller shall contract with a private entity to randomly audit accounts as necessary to ensure compliance with applicable law and the requirements of the program.

(b) In auditing an account, the comptroller or private entity may require that a program participant provide further information and documentation regarding any payment from the participant's account.

(c) The private entity shall report to the comptroller any violation of this subchapter or other relevant law found by the entity during an audit conducted under this section.

Sec. 29.361. SUSPENSION OF ACCOUNT. (a) The comptroller shall suspend the account of a program participant who fails to comply with applicable law or a requirement of the program, including a requirement under Section 29.356(a), or who substantially misuses funds received under the program.

(b) On suspension of an account under Subsection (a), the comptroller shall notify the program participant in writing that the account has been suspended and that no further payments may be made from the account. The notification must specify the grounds for the suspension and state that the participant has 10 business days to respond and take any corrective action required by the comptroller.

(c) On the expiration of the 10-day period under Subsection (b), the comptroller shall:

(1) order permanent closure of the suspended account and declare the program participant ineligible for the program;

(2) order temporary reinstatement of the account, conditioned on the performance of a specified action by the participant; or

(3) order full reinstatement of the account.

(d) The comptroller may recover funds distributed under the program that were used for expenses not allowed under Section 29.357(a) from the program participant or the entity that received the funds if the participant's account is suspended or closed under this section.

Sec. 29.362. TUITION AND FEES; REFUND PROHIBITED. (a) An education service provider may not charge a child participating in the program an amount greater than the standard amount charged for that service by the provider.

(b) An education service provider or a vendor of educational products receiving funds distributed under the program may not in any manner rebate, refund, or credit to or share with a program participant, or any person on behalf of a participant, any program funds paid or owed by the participant to the provider or vendor.

Sec. 29.363. REFERRAL TO ATTORNEY GENERAL. (a) If the comptroller obtains evidence of fraudulent use of an account, the comptroller may refer the case to the attorney general for investigation.

(b) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with the consenting local prosecutor to prosecute an offense referred to the attorney general under Subsection (a).

Sec. 29.364. PROVIDER ACCOUNTABILITY. (a) To receive funds distributed under the program, a private school must be accredited by an organization that is recognized by the Texas Private School Accreditation Commission.

(b) A practitioner or provider who provides educational therapies or services must be licensed or accredited by a regional or national accrediting organization to receive funds distributed under the program.

(c) A private tutor, teaching service, or online educational course or program provider must apply to and be approved by the commissioner to receive funds distributed under the program.

(d) To be eligible for approval under Subsection (c), a private tutor or each employee of a teaching service who intends to provide educational services to a program participant must:

(1) be a teacher who:

(A) is certified under Subchapter B, Chapter 21;

(B) holds a National Board Certification issued by the National Board for Professional Teaching Standards; or

(C) has experience teaching at an institution of higher education or private or independent institution of higher education; and

(2) either:

(A) complete a national criminal history record information review; or

(B) provide to the commissioner documentation indicating that the tutor or employee, as applicable, has completed a national criminal history record information review within a period established by commissioner rule.

(e) The commissioner shall review the national criminal history record information or documentation for each private tutor or teaching service who submits an application under Subsection (c). The tutor or teaching service must provide the commissioner with any information requested by the commissioner to enable the commissioner to complete the review.

(f) The commissioner shall maintain and provide to the comptroller a list of private tutors, teaching services, and online educational courses or program providers approved to receive funds distributed under the program. The comptroller shall post the list on the comptroller's Internet website.

(g) A private tutor, teaching service, or online educational course or program provider may appeal to the comptroller the commissioner's rejection of an application submitted under Subsection (c).

(h) The commissioner may adopt rules necessary to exercise the commissioner's powers and duties under this section.

Sec. 29.365. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR AUTONOMY. (a) An education service provider or vendor of educational products that receives funds distributed under the program is not an agent of the state or federal government.

(b) Except as provided by this subchapter, the comptroller, the commissioner, the agency, the State Board of Education, any other state agency, or any school district may not:

(1) regulate the educational program of an education service provider or vendor of educational products that receives funds distributed under the program; or

(2) exercise control or supervision over a program participant or an education service provider or vendor of educational products that receives funds distributed under the program.

(c) The program does not expand the regulatory authority of the state or any school district to impose any additional regulation on an education service provider or vendor of educational products except those reasonably necessary to enforce the program as provided by this subchapter.

(d) A private school may not be required to modify the school's creed, practices, admissions policies, curriculum, performance standards, or assessments to receive funds distributed under the program.

(e) A private school voluntarily selected by a parent for the parent's child to attend, with or without governmental assistance, may not be required to comply with any state law or rule governing the applicable educational program that was not in effect on January 1, 2017.

(f) In any proceeding challenging a rule adopted by a state agency or officer under this subchapter, the agency or officer has the burden of proof to establish that the rule:

(1) is necessary to implement or enforce the program as provided by this subchapter; and

(2) does not impose an undue burden on a program participant or an education service provider or vendor of educational products that receives or seeks to receive funds distributed under the program.

Sec. 29.366. STUDENT RECORDS AND INFORMATION. (a) On request by the parent of a child participating in the program, the school district or open-enrollment charter school that the child would otherwise attend shall provide a copy of the child's school records possessed by the district or school, if any, to the child's parent or, if applicable, the private school the child attends.

(b) The agency shall provide to the comptroller any information available to the agency requested by the comptroller regarding a child who participates or seeks to participate in the program. The comptroller may not retain information provided under this subsection beyond the period necessary to determine:

(1) a child's eligibility to participate in the program; or

(2) the amount of a payment to a program participant's account under

Section 29.358.

Sec. 29.367. REPORTING NUMBER OF PARTICIPANTS. (a) Not later than October 1 of each year, the comptroller shall notify the commissioner and the Legislative Budget Board of the number of eligible children likely to participate in the program, disaggregated by the school district or open-enrollment charter school the eligible children would otherwise attend.

(b) Not later than March 1 of each year, the comptroller shall provide final information to the commissioner and the Legislative Budget Board regarding the number of children participating in the program, disaggregated in the same manner as the initial information under Subsection (a).

Sec. 29.368. ANNUAL SURVEY. The comptroller may conduct an annual parental satisfaction survey that asks each parent of a child participating in the program to express:

(1) the parent's overall level of satisfaction with the program; and

(2) the parent's opinion on specified topics and issues relevant to the effectiveness of the program.

Sec. 29.369. PARENT REVIEW COMMITTEE. (a) A parent review committee is established to assist the comptroller, at the comptroller's request, in:

(1) determining whether certain expenses are allowed under Section 29.357; and

(2) reviewing an appeal of the commissioner's decision to reject an application of a private tutor, teaching service, or online educational course or program provider for approval under Section 29.364 to receive funds distributed under the program.

(b) The committee consists of the comptroller, or a representative designated by the comptroller, and eight members appointed by the comptroller. Each appointed member must be a parent of a child participating in the program. In making appointments to the committee, the comptroller shall ensure that parents from at least four counties are included.

(c) An appointed member of the committee serves a one-year term at the pleasure of the comptroller and may be reappointed.

(d) The comptroller or the representative designated by the comptroller, as applicable, is the chair of the committee and may vote on a matter before the committee only if there is a tie.

Sec. 29.370. RULES. The comptroller shall:

(1) adopt rules as necessary to implement this subchapter, including:

(A) rules regarding expense reporting requirements for program participants; and

(B) rules for implementing this subchapter in a manner that ensures compliance with federal law regarding confidentiality of student educational information, including the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g); and

(2) coordinate as necessary to:

(A) calculate annually the savings to the state from the implementation of the program; and

(B) prevent fraud in financial transactions under the program, including by adopting measures to permit anonymous fraud reporting by telephone hotline or online communication.

Sec. 29.371. GIFTS, GRANTS, AND DONATIONS. The comptroller may solicit and accept gifts, grants, and donations from any public or private source for any expenses related to the administration of the program, including the initial implementation of the program.

Sec. 29.372. DYSLEXIA ALLOTMENT SET-ASIDE. (a) Each year, for each child participating in the program, the agency shall set aside a percentage of the state average maintenance and operations expenditures per student for the preceding state fiscal year in an amount equal to:

(1) for the first year the child participates in the program, five percent; and

(2) in each subsequent year the child participates in the program, 10 percent.

(b) The amounts set aside under Subsection (a) may be used only for purposes of funding the special allotment for students with dyslexia or a related disorder under Section 42.1561.

SECTION 4. Section 42.006(a-1), Education Code, is amended to read as follows:

(a-1) The commissioner by rule shall require each school district and open-enrollment charter school to report through the Public Education Information Management System information regarding the number of students enrolled in the district or school who are identified as having dyslexia or related disorders. The agency shall maintain the information provided in accordance with this subsection.

SECTION 5. Effective September 1, 2023, Sections 42.103(b) and (d), Education Code, are amended to read as follows:

(b) The basic allotment of a school district that ~~[contains at least 300 square miles and]~~ has not more than 1,600 students in average daily attendance is adjusted by applying the formula:

$$AA = (1 + ((1,600 - ADA) \times .0004)) \times ABA$$

(d) The basic allotment of a school district that offers a kindergarten through grade 12 program and has less than 5,000 students in average daily attendance is adjusted by applying the formula, of the following formulas, that results in the greatest adjusted allotment:

(1) the formula in Subsection (b), if [or (c) for which] the district is eligible for that formula; or

(2)  $AA = (1 + ((5,000 - ADA) \times .000025)) \times ABA$ .

SECTION 6. Effective September 1, 2018, Section 42.103(c), Education Code, is amended to read as follows:

(c) The basic allotment of a school district that contains less than 300 square miles and has not more than 1,600 students in average daily attendance is adjusted by applying the following formulas [formula]:

(1) for the fiscal year beginning September 1, 2018:

$$AA = (1 + ((1,600 - ADA) \times \underline{.000275} [\del{.00025}])) \times ABA$$

;

(2) for the fiscal year beginning September 1, 2019:

$$AA = (1 + ((1,600 - ADA) \times \underline{.00030})) \times ABA$$

;

(3) for the fiscal year beginning September 1, 2020:

$$AA = (1 + ((1,600 - ADA) \times \underline{.000325})) \times ABA$$

;

(4) for the fiscal year beginning September 1, 2021:

$$AA = (1 + ((1,600 - ADA) \times \underline{.00035})) \times ABA$$

; and

(5) for the fiscal year beginning September 1, 2022:

$$AA = (1 + ((1,600 - ADA) \times \underline{.000375})) \times ABA$$

SECTION 7. Subchapter C, Chapter 42, Education Code, is amended by adding Section 42.1561 to read as follows:

Sec. 42.1561. ALLOTMENT FOR STUDENT WITH DYSLEXIA OR RELATED DISORDER. (a) Subject to Subsection (b), for each student that a school district serves who has been identified as having dyslexia or a related disorder, the

district is entitled to an annual allotment equal to the district's adjusted basic allotment as determined under Section 42.102 or Section 42.103, as applicable, multiplied by 0.1 for each school year or a greater amount provided by appropriation.

(b) A school district is entitled to the allotment under Subsection (a) only for a student who:

(1) is receiving instruction that:

(A) meets applicable dyslexia program criteria established by the agency; and

(B) is provided by a person with specific training in providing that instruction; or

(2) has received the instruction described by Subdivision (1) and is permitted, on the basis of having dyslexia or a related disorder, to use modifications in the classroom and accommodations in the administration of assessment instruments under Section 39.023.

(c) Funds allotted under this section must be used in providing services to students with dyslexia or related disorders.

(d) A school district may receive funding for a student under this section and Section 42.151 if the student satisfies the requirements of both sections.

(e) Not more than five percent of a district's students in average daily attendance are eligible for funding under this section.

SECTION 8. Section 42.253, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Notwithstanding Subsection (b), the commissioner shall adjust enrollment estimates and entitlement for each school district for each school year based on information provided by the comptroller under Section 29.367. This subsection expires September 1, 2021.

SECTION 9. Chapter 42, Education Code, is amended by adding Subchapter H to read as follows:

#### SUBCHAPTER H. FINANCIAL HARDSHIP TRANSITION PROGRAM

Sec. 42.451. FINANCIAL HARDSHIP GRANTS. (a) From amounts appropriated for this subchapter, the commissioner may administer a grant program that provides grants to school districts to defray financial hardships resulting from changes made to Chapter 41 and this chapter that apply after the 2016-2017 school year.

(b) The commissioner shall award grants under this subchapter to districts as provided by Section 42.452.

(c) Except as provided by Subsection (d), funding provided to a district under this subchapter is in addition to all other funding provided under Chapter 41 and this chapter.

(d) A district is not eligible for funding under this subchapter for a school year if the district receives for that school year an adjustment of the district's taxable value of property under Section 42.2521. A district may decline an adjustment under Section 42.2521 to maintain eligibility for funding under this subchapter.

(e) The commissioner may obtain additional information as needed from a district or other state or local agency to make determinations in awarding grants under this subchapter.

Sec. 42.452. AWARD OF GRANTS; AMOUNT. (a) The commissioner shall award grants to school districts based on the following formula:

$$\text{HG} = (\text{PL-CL}) \times (\text{TR}) \times (\text{TAHG/TEHG})$$

where:

"HG" is the amount of a district's hardship grant;

"PL" is the amount of funding under previous law to which a district would be entitled under Chapter 41 and this chapter as those chapters existed on January 1, 2017, determined using current school year data for the district;

"CL" is the amount of current law funding under Chapter 41 and this chapter to which a district is entitled;

"TR" is a district's maintenance and operations tax rate, as specified by the comptroller's most recent certified report;

"TAHG" is the total funding available for grants under Section 42.456 for a school year; and

"TEHG" is the sum of the combined amounts for all districts calculated by applying the formula  $(\text{PL-CL}) \times (\text{TR})$  for each district.

(b) A school district's hardship grant awarded under this subchapter for a school year may not exceed the lesser of:

(1) the amount equal to 10 percent of the total amount of funds available for grants under this subchapter for that school year; or

(2) the amount by which "PL" exceeds "CL" for that district for that school year.

(c) For purposes of calculating the formula under Subsection (a), the commissioner shall:

(1) if the value of (PL-CL) for a school district results in a negative number, use zero for the value of (PL-CL);

(2) if a school district's maintenance and operations tax rate ("TR") is greater than \$1, use \$1 for the value of "TR";

(3) use a maintenance and operations tax rate ("TR") of \$1 for each open-enrollment charter school, each special-purpose school district established under Subchapter H, Chapter 11, and the South Texas Independent School District; and

(4) if (TAHG/TEHG) equals a value greater than one, use a value of one for (TAHG/TEHG).

(d) If funds remain available under this subchapter for a school year after determining initial grant amounts under Subsection (a), as adjusted to reflect the limits imposed by Subsection (b), the commissioner shall reapply the formula as necessary to award all available funds.

Sec. 42.453. ELIGIBILITY OF OPEN-ENROLLMENT CHARTER SCHOOL. An open-enrollment charter school is eligible for a grant under this subchapter in the same manner as a school district.

Sec. 42.454. REGIONAL EDUCATION SERVICE CENTERS AND COUNTY DEPARTMENTS OF EDUCATION NOT ELIGIBLE. A regional education service center or a county department of education is not eligible for a grant under this subchapter.

Sec. 42.455. CERTAIN SCHOOL DISTRICTS NOT ELIGIBLE. A school district is not eligible for a grant under this subchapter if for the 2015-2016 school year the district's expenditures per student in average daily attendance, excluding bond debt service payments, capital outlays, and facilities acquisition and construction costs, exceeded an amount that is equal to 110 percent of the state average amount for that school year of expenditures per student in average daily attendance, excluding bond debt service payments, capital outlays, and facilities acquisition and construction costs, as those amounts are determined by the commissioner.

Sec. 42.456. FUNDING LIMIT. The amount of grants awarded by the commissioner under this subchapter may not exceed \$100 million for the 2017-2018 school year or \$50 million for the 2018-2019 school year.

Sec. 42.457. NO ADJUSTMENT BASED ON REVISED DATA. The commissioner may not adjust the amount of a school district's grant under this subchapter based on revisions to the district's data received after a grant has been awarded.

Sec. 42.458. RULES. The commissioner may adopt rules as necessary to administer this subchapter.

Sec. 42.459. DETERMINATION FINAL. A determination by the commissioner under this subchapter is final and may not be appealed.

Sec. 42.460. EXPIRATION. This subchapter expires September 1, 2019.

SECTION 10. Chapter 42, Education Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. TEXAS COMMISSION ON PUBLIC SCHOOL FINANCE

Sec. 42.601. DEFINITION. In this subchapter, "commission" means the Texas Commission on Public School Finance.

Sec. 42.602. TEXAS COMMISSION ON PUBLIC SCHOOL FINANCE. (a) The Texas Commission on Public School Finance is established to develop and make recommendations for improvements to the current public school finance system or for new methods of financing public schools.

(b) The commission is composed of 15 members, consisting of the following:

- (1) four members appointed by the governor;
- (2) three members appointed by the lieutenant governor;
- (3) three members appointed by the speaker of the house of representatives;
- (4) the chair of the senate committee on education, or a representative designated by the chair;
- (5) the chair of the senate committee on finance, or a representative designated by the chair;
- (6) the chair of the house of representatives committee on public education, or a representative designated by the chair;
- (7) the chair of the house of representatives committee on appropriations, or a representative designated by the chair; and
- (8) a member of the State Board of Education, as designated by the chair of that board.

(c) In making appointments under Subsections (b)(1), (2), and (3), the governor, lieutenant governor, and speaker of the house of representatives shall coordinate to ensure that the membership of the commission reflects, to the extent possible, the ethnic diversity of this state and includes at least one of each of the following representatives:

(1) an administrator in the public school system or an elected member of the board of trustees of a school district;

(2) a member of the business community; and

(3) a member of the civic community.

Sec. 42.603. PRESIDING OFFICER. The governor shall designate the presiding officer of the commission.

Sec. 42.604. COMPENSATION AND REIMBURSEMENT. A member of the commission is not entitled to compensation for service on the commission but is entitled to reimbursement for actual and necessary expenses incurred in performing commission duties.

Sec. 42.605. ADMINISTRATIVE SUPPORT AND FUNDING. (a) Staff members of the agency shall provide administrative support for the commission.

(b) Funding for the administrative and operational expenses of the commission shall be provided by appropriation to the agency for that purpose.

Sec. 42.606. RECOMMENDATIONS. (a) The commission shall develop recommendations under this subchapter to address issues related to the public school finance system, including:

(1) the purpose of the public school finance system and the relationship between state and local funding in that system;

(2) the appropriate levels of local maintenance and operations and interest and sinking fund tax effort necessary to implement a public school finance system that complies with the requirements under the Texas Constitution; and

(3) policy changes to the public school finance system necessary to adjust for student demographics and the geographic diversity in the state.

(b) The commission may establish one or more working groups composed of not more than five members of the commission to study, discuss, and address specific policy issues and recommendations to refer to the commission for consideration.

Sec. 42.607. REPORT. Not later than December 31, 2018, the commission shall prepare and deliver a report to the governor and the legislature that recommends statutory changes to improve the public school finance system, including any adjustments to funding to account for student demographics.

Sec. 42.608. PUBLIC MEETINGS AND PUBLIC INFORMATION. (a) The commission may hold public meetings as needed to fulfill its duties under this subchapter.

(b) The commission is subject to Chapters 551 and 552, Government Code.

Sec. 42.609. COMMISSION ABOLISHED; EXPIRATION OF SUBCHAPTER. (a) The commission is abolished January 8, 2019.

(b) This subchapter expires January 8, 2019.

SECTION 11. Effective September 1, 2018, Section 46.032(a), Education Code, is amended to read as follows:

(a) Each school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort to pay the principal of and interest on eligible bonds. The amount of state support, subject only to the maximum amount under Section 46.034, is determined by the formula:

$$\text{EDA} = (\text{EDGL} \times \text{ADA} \times \text{EDTR} \times 100) - (\text{EDTR} \times (\text{DPV}/100))$$

where:

"EDA" is the amount of state funds to be allocated to the district for assistance with existing debt;

"EDGL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is the lesser of:

(1) \$40 [~~\$35~~] or a greater amount for any year provided by appropriation; or  
 (2) the amount that would result in a total additional amount of state funds under this subchapter for the current year equal to \$50 million in excess of the state funds to which school districts would have been entitled under this section if the guaranteed level amount were \$35;

"ADA" is the number of students in average daily attendance, as determined under Section 42.005, in the district;

"EDTR" is the existing debt tax rate of the district, which is determined by dividing the amount budgeted by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521.

SECTION 12. Section 411.0901, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The Texas Education Agency is entitled to obtain criminal history record information maintained by the department about a person who is a private tutor or an employee of a teaching service who intends to provide educational services to a child participating in the program established under Subchapter J, Chapter 29, Education Code, and is seeking approval to receive funds distributed under that program.

SECTION 13. Effective September 1, 2023, Section 42.103(c), Education Code, is repealed.

SECTION 14. (a) The constitutionality and other validity under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, may be determined in an action for declaratory judgment in a district court in Travis County under Chapter 37, Civil Practice and Remedies Code, except that this section does not authorize an award of attorney's fees against this state and Section 37.009, Civil Practice and Remedies Code, does not apply to an action filed under this section.

(b) An appeal of a declaratory judgment or order, however characterized, of a district court, including an appeal of the judgment of an appellate court, holding or otherwise determining that all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, is constitutional or unconstitutional, or otherwise valid or invalid, under the state or federal constitution is an accelerated appeal.

(c) If the judgment or order is interlocutory, an interlocutory appeal may be taken from the judgment or order and is an accelerated appeal.

(d) A district court in Travis County may grant or deny a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or unconstitutionality, or other validity or invalidity, under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act.

(e) There is a direct appeal to the Texas Supreme Court from an order, however characterized, of a trial court granting or denying a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or unconstitutionality, or other validity or invalidity, under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act.

(f) The direct appeal is an accelerated appeal.

(g) This section exercises the authority granted by Section 3-b, Article V, Texas Constitution.

(h) The filing of a direct appeal under this section will automatically stay any temporary or otherwise interlocutory injunction or permanent injunction granted in accordance with this section pending final determination by the Texas Supreme Court, unless the supreme court makes specific findings that the applicant seeking such injunctive relief has pleaded and proved that:

(1) the applicant has a probable right to the relief it seeks on final hearing; and

(2) the applicant will suffer a probable injury that is imminent and irreparable, and that the applicant has no other adequate legal remedy.

(i) An appeal under this section, including an interlocutory, accelerated, or direct appeal, is governed, as applicable, by the Texas Rules of Appellate Procedure, including Rules 25.1(d)(6), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1), 38.6(a) and (b), 40.1(b), and 49.4.

SECTION 15. Subchapter J, Chapter 29, and Section 42.253(b-1), Education Code, as added by this Act, and Section 411.0901(a-1), Government Code, as added by this Act, apply beginning with the 2018-2019 school year.

SECTION 16. The commissioner of education is required to implement this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commissioner of education may, but is not required to, implement this Act using other appropriations available for the purpose.

SECTION 17. Except as otherwise provided by this Act, this Act takes effect September 1, 2017.

The amendment to **CSHB 21** was read.

Senator Taylor of Galveston offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 2**

Amend the proposed Floor Amendment No. 1 to **CSHB 21** (85R32240) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_. Sections 42.158(b), (d-1), and (g), Education Code, are amended to read as follows:

(b) For the first school year in which students attend a new instructional facility, a school district is entitled to an allotment of \$1,000 [~~\$250~~] for each student in average daily attendance at the facility. For the second school year in which students attend that instructional facility, a school district is entitled to an allotment of \$1,000 [~~\$250~~] for each additional student in average daily attendance at the facility.

(d-1) In addition to the appropriation amount described by Subsection (d), the amount of \$1 million may be appropriated each school year to supplement the allotment to which a school district is entitled under this section that may be provided using the appropriation amount described by Subsection (d). The commissioner shall first apply the funds appropriated under this subsection to prevent any reduction under Subsection (d) in the allotment for attendance at an eligible high school instructional facility, subject to the maximum amount of \$1,000 [~~\$250~~] for each student in average daily attendance. Any funds remaining after preventing all reductions in amounts due for high school instructional facilities may be applied proportionally to all other eligible instructional facilities, subject to the maximum amount of \$1,000 [~~\$250~~] for each student in average daily attendance.

(g) In this section:

(1) "Instructional [~~instructional~~] facility" has the meaning assigned by Section 46.001.

(2) "New instructional facility" includes:

(A) a newly constructed instructional facility;

(B) a repurposed instructional facility; and

(C) a leased facility operating for the first time as an instructional facility with a minimum lease term of not less than 10 years.

SECTION \_\_\_\_. A school district that is entitled under Section 42.158, Education Code, to receive funding in the 2017-2018 school year for the second year of student attendance at a new instructional facility is entitled for that year to the amount provided for the second year of student attendance as a result of the changes in law made by this Act.

The amendment to Floor Amendment No. 1 to **CSHB 21** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Nays: West.

Senator Taylor of Galveston offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 3**

Amend Floor Amendment No. 1 by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 13.054(g), Education Code, is amended to read as follows:

(g) In order to assist with the costs of facility renovation, repair, and replacement, a [A] district to which territory is annexed under this section is entitled to additional state aid for five years, beginning with the school year in which the annexation occurs [equal to the amount by which the annual debt service required to meet the indebtedness incurred by the district due to the annexation exceeds the additional amount of state aid that results from the adjustment under Subsection (f), if any]. The commissioner shall determine the amount of additional state aid provided each year by dividing the amount of debt service taxes received by the district during the tax year preceding the tax year in which the annexation occurs by the number of students enrolled in the district immediately preceding the date of annexation, and multiplying that result by the number of additional students enrolled in the district on September 1 after the date of annexation. The commissioner shall provide additional state aid under this subsection from funds appropriated for purposes of the Foundation School Program and available for that purpose. A determination by the commissioner under this subsection is final and may not be appealed. [In determining the amount of annual debt service required, the estimated tax levy from applying the receiving district's current debt service tax rate, if any, to the territory that has been annexed shall be deducted.]

SECTION \_\_\_\_\_. Section 13.054, Education Code, as amended by this Act, applies to a school district to which territory is annexed under that section on or after July 1, 2016.

SECTION \_\_\_\_\_. The commissioner of education is required to implement Section 13.054(g), Education Code, as amended by this Act, only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commissioner of education may, but is not required to, implement Section 13.054(g), Education Code, as amended by this Act, using other appropriations available for the purpose.

The amendment to Floor Amendment No. 1 to **CSHB 21** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Nays: West.

Senator Menéndez offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 4**

Amend Amendment No. 1 by Taylor to **CSHB 21** (senate committee report) in SECTION 2 of the bill, in added Section 29.026(c)(2)(E), Education Code (page 2, line 17), between "inclusion" and the underlined semicolon, by inserting "in accordance with 20 U.S.C. Section 1412(a)(5)".

The amendment to Floor Amendment No. 1 to **CSHB 21** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4.

**(President in Chair)**

Senator Rodríguez offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 5**

Amend Floor Amendment No. 1 to **CSHB 21** as follows:

- (1) Strike SECTION 3 of the bill (page 5, line 8 through page 20, line 23)
- (2) Renumber subsequent SECTIONS of the bill accordingly.

The amendment to Floor Amendment No. 1 to **CSHB 21** was read.

On motion of Senator Taylor of Galveston, Floor Amendment No. 5 was tabled by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Senator Menéndez offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 6**

Amend Floor Amendment No. 1, to **CSHB 21** as follows:

(1) In SECTION 3 of the bill, strike added Sections 29.353(b)(1) and (2), Education Code (page 6, line 20, through page 7, line 3) and substitute the following:

(1) states that a private school that accepts funds distributed under the program agrees to comply with laws regarding the provision of educational services to children with disabilities in the same manner that a public school is required to comply, and a child with a disability attending a private school using program funds is entitled to receive the same services a child with a disability attending a public school is entitled to receive under federal and state law; and

(2) provides information regarding rights to which a child with a disability is entitled under federal and state law if the child attends a public school or the child attends a private school using program funds, including:

(A) rights provided under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.), including:

(i) an individualized education program;  
(ii) educational services provided in the least restrictive environment;  
(iii) instruction from certified teachers;  
(iv) due process hearings to ensure proper and full implementation of an individualized education program;  
(v) transition and planning services; and  
(vi) supplementary aids and services;  
(B) rights provided under Subchapter A; and  
(C) other rights provided under federal or state law, including rights provided under the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.).

(2) In SECTION 3 of the bill, strike added Section 29.364(a), Education Code (page 15, lines 10-13), and substitute the following: (a) To receive funds distributed under the program, a private school must:

(1) be accredited by an organization that is recognized by the Texas Private School Accreditation Commission; and

(2) in regards to children attending the school using program funds, agree to comply with federal and state laws regarding the provision of educational services to children with disabilities in the same manner that a public school is required to comply.

The amendment to Floor Amendment No. 1 to **CSHB 21** was read.

On motion of Senator Taylor of Galveston, Floor Amendment No. 6 was tabled by the following vote: Yeas 20, Nays 11.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Senator Uresti offered the following amendment to Floor Amendment No. 1:

#### **Floor Amendment No. 7**

Amend Floor Amendment No. 1 to **CSHB 21** as follows:

(1) In SECTION 3 of the bill, in added Section 29.359(a), Education Code (page 12, line 28), between "participant" and "must", insert "with an account at a financial institution that contracts with the comptroller".

(2) In SECTION 3 of the bill, following added Section 29.359(a), Education Code (page 12, between lines 30 and 31), insert the following:

(a-1) Notwithstanding any other provision of this subchapter, the comptroller shall develop alternative procedures for the participation in the program of a person who certifies that that person is unable to meet the requirements to establish an account imposed by each financial institution that contracts with the comptroller under Subsection (a).

The amendment to Floor Amendment No. 1 to **CSHB 21** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7.

Senator Menéndez offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 8**

Amend Amendment No. 1 by Taylor to **CSHB 21** (senate committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 42.101(a), Education Code, is amended to read as follows:

(a) For each student in average daily attendance, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C, a district is entitled to an allotment equal to the lesser of \$5,140 [~~\$4,765~~] or the amount that results from the following formula:

$$A = \underline{\$5,140} [\del{\$4,765}] \times (\text{DCR}/\text{MCR})$$

where:

"A" is the allotment to which a district is entitled;

"DCR" is the district's compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year; and

"MCR" is the state maximum compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50.

The amendment to Floor Amendment No. 1 to **CSHB 21** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 8.

Senator Perry offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 9**

Amend Floor Amendment No. 1, to **CSHB 21** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.25162 to read as follows:

Sec. 42.25162. ADDITIONAL STATE AID FOR CERTAIN DISTRICTS. (a) This section applies only to a school district that:

(1) is the only school district in the county in which the district is primarily located; and

(2) received additional state aid for the 2016-2017 school year under Section 42.2516, as that section existed on January 1, 2017.

(b) A school district is entitled to the additional state aid that would have been provided to the district for the current school year under Section 42.2516, as that section existed on January 1, 2017, if the district demonstrates, to the satisfaction of the commissioner, that the failure to receive that state aid would require the district to close at least one campus.

(c) A school district is not entitled to additional state aid under this section if the district receives a hardship grant under Subchapter H. The board of trustees of a school district may choose to decline a hardship grant under Subchapter H to maintain eligibility for additional state aid under this section. This subsection expires September 1, 2019.

The amendment to Floor Amendment No. 1 to **CSHB 21** was read.

Senator Perry temporarily withdrew Floor Amendment No. 9.

Senator Lucio offered the following amendment to Floor Amendment No. 1:

### **Floor Amendment No. 10**

Amend Amendment No. 1 by Taylor to **CSHB 21** (senate committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . Subchapter A, Chapter 29, Education Code, is amended by adding Section 29.025 to read as follows:

Sec. 29.025. STUDY REGARDING COSTS OF EDUCATING STUDENTS WITH DISABILITIES; REPORT. (a) The agency shall conduct a study to examine the costs of educating a student with disabilities under this subchapter, including an analysis of the different services provided. The agency may delegate the study required by this section to the Texas Commission on Public School Finance. The study must:

(1) determine whether the special education allotment under Section 42.151 provides adequate funding to schools for meeting the educational needs of students with disabilities; and

(2) if it is determined under Subdivision (1) that the special education allotment is inadequate, determine the amount of adjustment for the special education allotment that would provide adequate funding to schools for meeting the educational needs of students with disabilities.

(b) Not later than November 1, 2018, the agency shall prepare a report detailing the results of the study under this section and electronically submit the report to each standing legislative committee with primary jurisdiction over primary and secondary education.

(c) This section expires September 1, 2019.

The amendment to Floor Amendment No. 1 to **CSHB 21** was read.

Senator Lucio withdrew Floor Amendment No. 10.

Senator Hughes offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 11**

Amend Amendment No. 1 by Taylor to **CSHB 21** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter E, Chapter 45, Education Code, is amended by adding Section 45.116 to read as follows:

Sec. 45.116. ASSISTANCE FROM TEXAS PUBLIC FINANCE AUTHORITY. (a) A school district may:

(1) borrow money from the Texas Public Finance Authority made available in accordance with Section 1232.1031, Government Code; and

(2) as necessary in connection with obtaining loans or other financial assistance from the Texas Public Finance Authority in accordance with Section 1232.1031, Government Code;

(A) issue bonds and notes, provided that the term of an obligation issued for this purpose may not exceed 15 years; and

(B) enter into loan agreements, lease agreements, lease purchase agreements, or other appropriate financing agreements with the Texas Public Finance Authority.

(b) A school district may:

(1) make payments on an obligation or agreement issued or executed under Subsection (a) using any available funds, including maintenance and operations tax revenue; and

(2) secure the payment of an obligation or agreement issued or executed under Subsection (a) through:

(A) creating a lien against equipment obtained using the proceeds of the obligation;

(B) imposing an ad valorem tax otherwise authorized by law; or

(C) obtaining credit enhancement under Subchapter I.

SECTION \_\_\_\_\_. Section 45.252, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A school district may apply for credit enhancement under this subchapter of obligations issued under Section 45.116.

SECTION \_\_\_\_\_. Subchapter C, Chapter 1232, Government Code, is amended by adding Section 1232.1031 to read as follows:

Sec. 1232.1031. ISSUANCE OF OBLIGATIONS TO ASSIST SCHOOL DISTRICTS. (a) The authority may issue and sell obligations to finance:

(1) loans to eligible school districts for eligible purposes;

(2) the purchase by the authority of vehicles, equipment, or appliances for sale, lease, or lease purchase to eligible school districts;

(3) a lease or other agreement that concerns equipment that an eligible school district has purchased or leased or intends to purchase or lease; and

(4) costs associated with maintenance, repair, rehabilitation, or renovation of eligible school district facilities.

(b) The authority may use proceeds of obligations issued under this section to pay costs of administering this section, including costs of issuing obligations.

(c) In connection with a purchase or project financed with the proceeds of obligations issued under this section, the authority may:

(1) enter into loan agreements, lease agreements, lease purchase agreements, or other appropriate financing agreements with eligible school districts;

(2) purchase obligations issued by eligible school districts; and

(3) enter into credit agreements and exercise other powers granted to issuers under Chapter 1371.

(d) The authority may secure payment of authority obligations issued under this section with the pledge of money in the school district equipment and improvement fund established under Subsection (e).

(e) The school district equipment and improvement fund is established outside the treasury as a trust fund and is administered by the comptroller on behalf of the authority as directed or agreed to by the board. The fund consists of proceeds of obligations issued by the authority under this section and obligations and agreements issued or executed by school districts and purchased or funded by the authority with proceeds of authority obligations. Money in the fund may be spent without appropriation and may be used only to fund activities under this section or to secure repayment of authority obligations. Interest and income from the assets of the fund shall be credited to and deposited in the fund.

(f) The board may establish funds and accounts determined to be necessary or appropriate in connection with the activities of the authority under this section.

(g) The aggregate amount of obligations issued by the authority under this section outstanding at one time may not exceed \$100 million.

(h) The board shall adopt rules necessary to implement this section, including rules prescribing eligibility requirements for school districts seeking assistance under this section, rules identifying eligible purposes for purposes of Subsection (a)(1), and rules identifying eligible school district facilities for purposes of Subsection (a)(4). Before adopting or modifying a rule under this subsection, the board shall consult with the commissioner of education.

(i) Rules adopted under Subsection (h) may establish a process under which a school district must obtain approval by the commissioner of education in order to be eligible for assistance under this section.

(j) The authority may not issue an obligation under this section on or after September 1, 2021. The prohibition imposed by this subsection does not apply to:

(1) refunding bonds issued by the authority in accordance with Chapter 1207; or

(2) other obligations issued by the authority to refinance obligations incurred under this section before September 1, 2021.

The amendment to Floor Amendment No. 1 to **CSHB 21** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 11 except as follows:

Nays: West.

Senator Hughes offered the following amendment to Floor Amendment No. 1:

### Floor Amendment No. 12

Amend Amendment No. 1 by Taylor to **CSHB 21** (senate committee printing) by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 45.0532, Education Code, is amended by amending Subsections (a), (a-1), and (b) and adding Subsections (b-1), (b-2), (b-3), and (b-4) to read as follows:

(a) In addition to the general limitation under Section 45.053, the commissioner may not approve charter district bonds for guarantee under this subchapter in a total amount that exceeds the charter capacity [~~percentage of the total available capacity~~] of the guaranteed bond program [~~that is equal to the percentage of the number of students enrolled in open enrollment charter schools in this state compared to the total number of students enrolled in all public schools in this state, as determined by the commissioner~~].

(a-1) The commissioner may not approve charter district refunding or refinanced bonds for guarantee under this subchapter in a total amount that exceeds one-half of the charter capacity [~~total amount available for the guarantee of charter district bonds under Subsection (a)~~].

(b) For purposes of this section [~~Subsection (a)~~], the charter [~~total available~~] capacity of the guaranteed bond program is the percentage of the total capacity of the guaranteed bond program [limit] established by the board under Sections 45.053(d) and 45.0531 that is equal to the percentage of the number of students enrolled in open-enrollment charter schools in this state compared to the total number of students enrolled in all public schools in this state, as determined by the commissioner [minus the total amount of outstanding guaranteed bonds]. Each time the board increases the limit under Section 45.053(d), the total amount of charter district bonds that may be guaranteed increases accordingly under Subsection (a).

(b-1) The charter capacity provided by Subsection (b) applies beginning with the state fiscal year that begins September 1, 2021. Subject to Subsections (b-2) and (b-3), the board shall establish a charter capacity for the preceding state fiscal years by increasing the total limitation on the amount of charter district bonds that could be guaranteed under the law in effect on January 1, 2017, by the following amount:

(1) for the state fiscal year that begins September 1, 2017, 20 percent of the difference between the charter capacity provided by Subsection (b) and the charter capacity in effect on January 1, 2017;

(2) for the state fiscal year that begins September 1, 2018, 40 percent of the difference between the charter capacity provided by Subsection (b) and the charter capacity in effect on January 1, 2017;

(3) for the state fiscal year that begins September 1, 2019, 60 percent of the difference between the charter capacity provided by Subsection (b) and the charter capacity in effect on January 1, 2017; and

(4) for the state fiscal year that begins September 1, 2020, 80 percent of the difference between the charter capacity provided by Subsection (b) and the charter capacity in effect on January 1, 2017.

(b-2) For any year, the board may increase the charter capacity by less than the amount provided by Subsection (b-1) or may decline to increase the charter capacity by any amount if:

(1) the board determines that increasing the charter capacity by the amount provided by Subsection (b-1) would likely result in a negative impact on the bond ratings provided by one or more nationally recognized investment rating firms for school district or charter district bonds for which a guarantee is requested under this subchapter; or

(2) one or more charter districts default on payment of maturing or matured principal or interest on a guaranteed bond, resulting in a negative impact on the bond ratings provided by one or more nationally recognized investment rating firms for school district or charter district bonds for which a guarantee is requested under this subchapter.

(b-3) If the board makes a determination described by Subsection (b-2) for any year and modifies the schedule provided by Subsection (b-1) for that year, the board may also make appropriate adjustments to the schedule for subsequent years to reflect the modification, provided that the charter capacity for any year may not exceed the limit provided for that year by the schedule.

(b-4) Subsections (b-1), (b-2), and (b-3) and this subsection expire September 1, 2022.

SECTION \_\_\_\_\_. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0533 to read as follows:

Sec. 45.0533. COMMUNICATION WITH NATIONALLY RECOGNIZED INVESTMENT RATING FIRM. Information obtained from a nationally recognized investment rating firm relating to Section 45.053, 45.0531, or 45.0532 that concerns a hypothetical or actual scenario relating to the credit rating of the permanent school fund or the bond guarantee program of the permanent school fund, and any communications from, or information generated by, the agency, the board, the commissioner, or their employees relating to that information, is confidential and not subject to disclosure under Chapter 552, Government Code.

SECTION \_\_\_\_\_. Section 45.056, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) For purposes of this subsection, "bond security documents" include the resolution, trust agreement, indenture, ordinance, loan agreement, deed of trust, bond, note, and any additional document executed in connection with the issuance of a charter district bond for which a guarantee is requested under this subchapter. The commissioner's investigation of an application submitted by a charter district may include evaluation of whether the charter district bond security documents provide a security interest in real property pledged as collateral for the bond and the repayment obligation under the proposed guarantee. The commissioner may decline to approve the application if the commissioner determines that sufficient security is not provided.

SECTION \_\_\_\_\_. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0561 to read as follows:

Sec. 45.0561. COMMISSIONER CONSIDERATION OF ADDITIONAL FACTORS FOR CHARTER DISTRICT BONDS. (a) In addition to considering all other applicable requirements under this subchapter, in determining whether to

approve charter district bonds for guarantee the commissioner may consider any additional reasonable factor that the commissioner determines necessary to protect the guarantee program or minimize risk to the permanent school fund, including:

(1) whether the charter district had an average daily attendance of more than 75 percent of its student capacity for each of the preceding three school years, or for each school year of operation if the charter district has not been in operation for the preceding three school years;

(2) the performance of the charter district under Sections 39.053 and 39.054; and

(3) any other indicator of performance that could affect the charter district's financial performance.

(b) This section expires September 1, 2019.

SECTION \_\_\_\_\_. Section 45.0571, Education Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsections (b) and (c) to read as follows:

(a-1) Notwithstanding Chapter 404, Government Code, the charter district bond guarantee reserve fund is managed by the board in the same manner that the permanent school fund is managed by the board. The board may invest money in the charter district bond guarantee reserve fund in accordance with the investment standard described by Section 404.024(j), Government Code, and the board's investment is not subject to any other limitation or requirement provided by Section 404.024, Government Code.

(a-2) The board shall adjust the investment portfolio of charter district bond guarantee reserve fund money periodically to ensure that the balance of the fund is sufficient to meet the cash flow requirements of the fund.

(b) Subject to Subsection (c), a ~~[A]~~ charter district that has a bond guaranteed as provided by this subchapter must ~~[annually]~~ remit to the commissioner, for deposit in the charter district bond guarantee reserve fund, an amount equal to 20 ~~[10]~~ percent of the savings to the charter district that is a result of the lower interest rate on the bond due to the guarantee by the permanent school fund. The amount due under this section shall be ~~[amortized and]~~ paid on receipt by the charter district of the bond proceeds ~~[over the duration of the bond. Each payment is due on the anniversary of the date the bond was issued].~~ The commissioner shall adopt rules to determine the amount ~~[total and annual amounts]~~ due under this section.

(c) Subsection (b) does not apply if, at the time the charter district receives the proceeds of the bond guaranteed as provided by this subchapter, the balance of the charter district bond guarantee reserve fund is at least equal to three percent of the total amount of outstanding guaranteed bonds issued by charter districts. ~~[The commissioner may direct the comptroller to annually withhold the amount due to the charter district bond guarantee reserve fund under Subsection (b) for that year from the state funds otherwise payable to the charter district.]~~

SECTION \_\_\_\_\_. Section 45.0571, Education Code, as amended by this Act, applies only to a charter district bond that is approved by the commissioner of education for guarantee under Subchapter C, Chapter 45, Education Code, on or after September 1, 2017. A charter district bond that is approved by the commissioner of

education for guarantee under Subchapter C, Chapter 45, Education Code, before September 1, 2017, is governed by the law in effect on the date the bond is approved for guarantee, and the former law is continued in effect for that purpose.

The amendment to Floor Amendment No. 1 to **CSHB 21** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 12 except as follows:

Present-not voting: West.

Senator Taylor of Galveston offered the following amendment to Floor Amendment No. 1:

### **Floor Amendment No. 13**

Amend Floor Amendment No. 1 to **CSHB 21** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 12.1012, Education Code, is amended by adding Subdivisions (7) and (8) to read as follows:

(7) "Payable obligation" means a contractually obligated expenditure that was reasonably incurred for the benefit of students enrolled at an open-enrollment charter school before the open-enrollment charter school ceased operations, including a debt described by Section 12.128(e). The term does not include any amount owed to a former charter holder or officer or director of the school.

(8) "Remaining funds" means funds that are held by a former charter holder after satisfaction of all payable obligations and that were received:

(A) under Section 12.106; or

(B) from the disposition of property.

SECTION \_\_\_\_\_. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.10125 to read as follows:

Sec. 12.10125. OPEN-ENROLLMENT CHARTER SCHOOL NOT IN OPERATION. An open-enrollment charter school ceases to operate if:

(1) the school's charter:

(A) has been revoked;

(B) has expired;

(C) has been surrendered; or

(D) has been abandoned; or

(2) the school has otherwise ceased operation as a public school.

SECTION \_\_\_\_\_. Section 12.106, Education Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) Except as provided by Subsection (e), all remaining funds of a charter holder for an open-enrollment charter school that ceases to operate must be returned to the agency and deposited in the charter school liquidation fund.

(e) The agency may approve a transfer of a charter holder's remaining funds to another charter holder if the charter holder receiving the funds has not received notice of the expiration or revocation of the charter holder's charter for an open-enrollment charter school or notice of a reconstitution of the governing body of the charter holder under Section 12.1141 or 12.115.

(f) The commissioner may adopt rules specifying:

(1) the time during which a former charter holder must return remaining funds under Subsection (d); and

(2) the qualifications required for a charter holder to receive a transfer of remaining funds under Subsection (e).

SECTION \_\_\_\_\_. Section 12.107(a), Education Code, is amended to read as follows:

(a) Funds received under Section 12.106 after September 1, 2001, by a charter holder:

(1) are considered to be public funds for all purposes under state law;

(2) are held in trust by the charter holder for the benefit of the students of the open-enrollment charter school;

(3) may be used only for a purpose for which a school may use local funds under Section 45.105(c); ~~and~~

(4) pending their use, must be deposited into a bank, as defined by Section 45.201, with which the charter holder has entered into a depository contract; and

(5) may not:

(A) be pledged or used to secure loans or bonds for any other organization, including a non-charter operation or out-of-state operation conducted by the charter holder or a related party; or

(B) be used to support an operation or activity not related to the educational activities of the charter holder.

SECTION \_\_\_\_\_. Section 12.1163, Education Code, is amended by adding Subsection (d) to read as follows:

(d) An audit under Subsection (a) may include the review of any real property transactions between the charter holder and a related party, as defined by commissioner rule adopted under Section 12.1166. If the commissioner determines that a transaction with a related party using funds received under Section 12.106 was structured in a manner that did not benefit the open-enrollment charter school or that the transaction was in excess of fair market value as determined under Section 12.1167, the commissioner may order that the transaction be reclassified or that other action be taken as necessary to protect the school's interests. Failure to comply with the commissioner's order is a material violation of the charter.

SECTION \_\_\_\_\_. Subchapter D, Chapter 12, Education Code, is amended by adding Sections 12.1166, 12.1167, and 12.1168 to read as follows:

Sec. 12.1166. RELATED PARTY TRANSACTIONS. (a) The commissioner shall adopt a rule defining "related party" for purposes of this subchapter. The definition of "related party" must include:

(1) a party with a current or former board member, administrator, or officer who is:

(A) a board member, administrator, or officer of an open-enrollment charter school; or

(B) related within the third degree of consanguinity or affinity, as determined under Chapter 573, Government Code, to a board member, administrator, or officer of an open-enrollment charter school;

(2) a charter holder's related organizations, joint ventures, and jointly governed organizations;

(3) an open-enrollment charter school's board members, administrators, or officers or a person related to a board member, administrator, or officer within the third degree of consanguinity or affinity, as determined under Chapter 573, Government Code; and

(4) any other disqualified person, as that term is defined by 26 U.S.C. Section 4958(f).

(b) For purposes of Subsection (a)(1), a person is a former board member, administrator, or officer if the person served in that capacity within one year of the date on which a financial transaction between the charter holder and a related party occurred.

(c) In a charter holder's annual audit filed under Section 44.008, the charter holder must include a list of all transactions with a related party.

Sec. 12.1167. APPRAISAL OF CERTAIN PROPERTY. The commissioner may adopt rules to require an open-enrollment charter school to:

(1) notify the commissioner that the school intends to enter into a transaction with a related party; and

(2) provide an appraisal from a certified appraiser to the agency.

Sec. 12.1168. FINANCIAL REPORT OF CERTAIN SCHOOLS. (a) In this section, "related party" has the meaning adopted by commissioner rule under Section 12.1166.

(b) A financial report filed under Section 44.008 by an open-enrollment charter school must separately disclose:

(1) all financial transactions between the open-enrollment charter school and any related party, separately stating the principal, interest, and lease payments; and

(2) the total compensation and benefits provided by the school and any related party for each member of the governing body and each officer and administrator of the school and the related party.

(c) The commissioner may adopt rules to implement this section.

SECTION \_\_\_\_. Section 12.128, Education Code, is amended by amending Subsections (a) and (c) and adding Subsections (a-1), (b-1), (b-2), (c-1), (c-2), and (f) to read as follows:

(a) Property purchased [~~or leased~~] with funds received by a charter holder under Section 12.106 after September 1, 2001:

(1) is considered to be public property for all purposes under state law;

(2) is property of this state held in trust by the charter holder for the benefit of the students of the open-enrollment charter school; and

(3) may be used only for a purpose for which a school district may use school district property.

(a-1) Property leased with funds received by a charter holder under Section 12.106 after September 1, 2001:

(1) is considered to be public property for all purposes under state law;  
(2) is property of this state held in trust by the charter holder for the benefit of the students of the open-enrollment charter school; and

(3) may be used only for a purpose for which a school district may use school district property.

(b-1) Subject to Subsection (b-2), while an open-enrollment charter school is in operation, the charter holder holds title to any property described by Subsection (a) or (b) and may exercise complete control over the property as permitted under the law.

(b-2) A charter holder may not transfer, sell, or otherwise dispose of any property described by this section without the prior written consent of the agency if:

(1) the charter holder has received notice of:

(A) the expiration of the charter holder's charter under Section 12.1141 and the charter has not been renewed; or

(B) the charter's revocation under Section 12.115(c);

(2) the charter holder has received notice that the open-enrollment charter school is under discretionary review by the commissioner, which may result in the revocation of the charter or a reconstitution of the governing body of the charter holder under Section 12.115; or

(3) the open-enrollment charter school for which the charter is held has otherwise ceased to operate.

(c) The commissioner shall:

(1) take possession and assume control of the property described by Subsection (a) of an open-enrollment charter school that ceases to operate; and

(2) supervise the disposition of the property in accordance with this subchapter ~~[law]~~.

(c-1) Notwithstanding Subsection (c), if an open-enrollment charter school ceases to operate, the agency:

(1) for property purchased with state funds, shall direct the charter holder to dispose of the property through one of the following methods:

(A) retain or liquidate the property and provide reimbursement to the state as provided by Section 12.1281;

(B) transfer the property to:

(i) the agency under Section 12.1281(h); or

(ii) a school district or open-enrollment charter school under Section 12.1282;

(C) close the operations of the open-enrollment charter school under Section 12.1284; or

(D) take any combination of the actions described by Paragraphs (A), (B), and (C); and

(2) for property leased with state funds, may direct the charter holder to assign the charter holder's interest in the lease to the agency.

(c-2) The agency may approve an expenditure of remaining funds by a former charter holder for insurance or utilities for or maintenance, repairs, or improvements to property described by this section if the agency determines that the expenditure is reasonably necessary to dispose of the property or preserve the property's value.

(f) A decision by the agency under this section is final and may not be appealed.

SECTION \_\_\_\_ . Subchapter D, Chapter 12, Education Code, is amended by adding Sections 12.1281, 12.1282, 12.1283, and 12.1284 to read as follows:

Sec. 12.1281. DISPOSITION OF PROPERTY PURCHASED WITH STATE FUNDS. (a) A former charter holder of an open-enrollment charter school that has ceased to operate may retain property described by Section 12.128 if the former charter holder reimburses the state with non-state funds and the former charter holder:

(1) provides written assurance that the requirements of Section 12.1284 will be met; and

(2) receives approval from the agency.

(b) On receiving consent from the agency under Section 12.128(b-2) and a written agreement from any creditor with a security interest described by Section 12.128(e), the former charter holder may:

(1) sell property for fair market value; or

(2) transfer property to an open-enrollment charter school or a school district as provided under Section 12.1282.

(c) The amount of funds the state is entitled to as reimbursement for property of a former charter holder is:

(1) for property retained by the former charter holder, the current fair market value less the amount of any debt subject to a security interest or lien described by Section 12.128(e), multiplied by the percentage of state funds used to purchase the property; or

(2) for property sold by the former charter holder, the net sales proceeds of the property multiplied by the percentage of state funds used to purchase the property.

(d) To determine the amount of state funds a former charter holder used to purchase property, the agency shall calculate:

(1) an estimated state reimbursement amount based on the last annual financial report filed under Section 44.008 available at the time the former charter holder retains or sells the property; and

(2) a final state reimbursement amount using the former charter holder's final financial audit filed under Section 44.008.

(e) A former charter holder retaining property under Subsection (a) or selling the property under Subsection (b)(1) shall:

(1) file an affidavit in the real property records of the county in which the property is located disclosing the state interest in the property;

(2) place in escrow with the state comptroller an amount of non-state funds equal to 110 percent of the estimated state reimbursement amount not later than:

(A) the closing date of the sale of the property if the charter holder is selling the property; or

(B) the 90th day after the charter school's last day of instruction if the charter holder is retaining the property; and

(3) not later than two weeks after the date the charter holder's final financial audit is filed under Section 44.008, submit to the state the final state reimbursement amount using the funds in escrow in addition to any other funds necessary to pay the full amount of state reimbursement.

(f) A former charter holder may retain any funds remaining after complying with this section.

(g) As soon as the agency is satisfied that the former charter holder complied with Subsection (e), the agency shall file written notice of the release of the state interest in property the former charter holder retains under this section and authorize the return of any funds not used for state reimbursement to the former charter holder.

(h) Subject to the satisfaction of any security interest or lien described by Section 12.128(e), if a former charter holder does not dispose of property under Subsection (a) or (b), the former charter holder shall transfer the property, including a conveyance of title, to the agency in accordance with the procedures and time requirements established by the agency.

(i) Subject to the satisfaction of any security interest or lien described by Section 12.128(e), if the agency determines a former charter holder failed to comply with this section or Section 12.1282, on request of the agency, the attorney general shall take any appropriate legal action to compel the former charter holder to convey title to the agency or other governmental entity authorized by the agency to maintain or dispose of property.

(j) A decision by the agency under this section is final and may not be appealed.

(k) The commissioner may adopt rules necessary to administer this section.

Sec. 12.1282. TRANSFER OF PROPERTY PURCHASED WITH STATE FUNDS. (a) The agency may approve the transfer of property described by Section 12.128 from an open-enrollment charter school that has ceased to operate, or may transfer property conveyed to the agency by the former charter holder under Section 12.1281, to a school district or an open-enrollment charter school if:

(1) the open-enrollment charter school or school district receiving the property:

(A) agrees to the transfer; and

(B) agrees to identify the property as purchased wholly or partly using state funds on the school's annual financial report filed under Section 44.008;

(2) any creditor with a security interest in or lien on the property described by Section 12.128(e) agrees to the transfer; and

(3) the transfer of the property does not make the open-enrollment charter school or school district receiving the property insolvent.

(b) Property received by an open-enrollment charter school or school district under this section is considered to be state property under Section 12.128(a).

(c) The commissioner may adopt rules necessary to administer this section, including rules establishing qualifications and priority for a school district or open-enrollment charter school to receive a transfer of property under this section.

(d) If the agency determines that the cost of disposing of personal property described by Section 12.128 transferred to the agency by an open-enrollment charter school that ceases to operate exceeds the return of value from the sale of the property, the agency may distribute the personal property to open-enrollment charter schools and school districts in a manner determined by the commissioner.

(e) A determination by the agency under this section is final and may not be appealed.

Sec. 12.1283. SALE OF PROPERTY PURCHASED WITH STATE FUNDS.

(a) After the agency receives title to property described by Section 12.128, the agency may sell the property at any price acceptable to the agency.

(b) On request of the agency, the following state agencies shall enter into a memorandum of understanding to sell property for the agency:

(1) for real property, the General Land Office; and

(2) for personal property, the Texas Facilities Commission.

(c) A memorandum of understanding entered into as provided by Subsection (b) may allow the General Land Office or Texas Facilities Commission to recover from the sale proceeds any cost incurred by the agency in the sale of the property.

(d) Subject to the satisfaction of any security interest or lien described by Section 12.128(e), proceeds from the sale of property under this section shall be deposited in the charter school liquidation fund.

(e) The commissioner may adopt rules as necessary to administer this section.

Sec. 12.1284. CLOSURE OF CHARTER SCHOOL OPERATIONS. (a) After extinguishing all payable obligations owed by an open-enrollment charter school that ceases to operate, including a debt described by Section 12.128(e), a former charter holder shall:

(1) remit to the agency:

(A) any remaining funds described by Section 12.106(d); and

(B) any state reimbursement amounts from the sale of property described by Section 12.128; or

(2) transfer the remaining funds to another charter holder under Section 12.106(e).

(b) The agency shall deposit any funds received under Subsection (a)(1) in the charter school liquidation fund.

(c) The commissioner may adopt rules necessary to administer this section.

SECTION \_\_\_\_ . Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.141 to read as follows:

Sec. 12.141. RECLAIMED FUNDS. (a) The agency shall deposit funds received under Sections 12.106, 12.128, 12.1281, 12.1283, and 12.1284 into the charter school liquidation fund and may use the funds to:

(1) pay expenses relating to managing and closing an open-enrollment charter school that ceases to operate, including:

(A) maintenance of the school's student and other records; and

(B) the agency's personnel costs associated with managing and closing the school;

(2) dispose of property described by Section 12.128; and

(3) maintain property described by Section 12.128, including expenses for insurance, utilities, maintenance, and repairs.

(b) The agency may not use funds under this section until the commissioner determines if the open-enrollment charter school that ceases to operate received an overallocation of funds under Section 12.106 that must be recovered for the foundation school program.

(c) The agency shall annually review the amount of funds in the charter school liquidation fund and transfer any funds exceeding \$2 million:

(1) for use in funding a high-quality educational grant program established by the commissioner; or

(2) to the comptroller to deposit in the charter district bond guarantee reserve fund under Section 45.0571.

(d) The agency may delay a transfer of funds under Subsection (c) if the excess is less than \$100,000. Funds set aside for an overallocation of funds from the foundation school program are not included in determining whether the amount of funds exceeds \$2 million.

(e) The commissioner may adopt rules necessary to implement this section.

SECTION \_\_\_\_\_. Section 39.1121, Education Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) A board of managers appointed for the final closure of a former open-enrollment charter school under Subsection (c) has the authority to:

(1) access and manage any former charter holder's bank account that contains funds received under Section 12.106; and

(2) subject to approval by a creditor with a security interest in or lien on property described by Section 12.128 and in accordance with Sections 12.1281 and 12.1282, sell or transfer to another charter holder or school district any property titled to the former charter holder that is identified in the former open-enrollment charter school's annual financial report filed under Section 44.008 as being acquired, wholly or partly, with funds received under Section 12.106.

SECTION \_\_\_\_\_. Section 39.1122(c), Education Code, is amended to read as follows:

(c) The agency [~~commissioner~~] shall use funds received by or due to the former charter holder under Section 12.106 or funds returned to the state from liquidation of [~~state~~] property described by Section 12.128 and held by a former charter holder for compensation of a member of a board of managers for an open-enrollment charter school or a campus of an open-enrollment charter school or a superintendent.

SECTION \_\_\_\_\_. Section 43.001(a), Education Code, is amended to read as follows:

(a) Except as provided by Subsection (b), the permanent school fund, which is a perpetual endowment for the public schools of this state, consists of:

(1) all land appropriated for the public schools by the constitution and laws of this state;

(2) all of the unappropriated public domain remaining in this state, including all land recovered by the state by suit or otherwise except pine forest land as defined by Section 88.111 and property described by Section 12.128;

(3) all proceeds from the authorized sale of permanent school fund land;

(4) all proceeds from the lawful sale of any other properties belonging to the permanent school fund;

(5) all investments authorized by Section 43.003 of properties belonging to the permanent school fund; and

(6) all income from the mineral development of permanent school fund land, including income from mineral development of riverbeds and other submerged land.

SECTION \_\_\_\_\_. Section 44.008, Education Code, is amended by adding Subsections (f), (g), and (h) to read as follows:

(f) An open-enrollment charter school shall provide an accounting of each parcel of the school's real property, including identifying the amount of local, state, and federal funds used to purchase or improve each parcel of property.

(g) An open-enrollment charter school for which the charter has expired, been revoked, or been surrendered or an open-enrollment charter school that otherwise ceases to operate shall submit a final annual financial report to the agency. The report must verify that all state property held by the charter holder has been returned or disposed of in accordance with Section 12.128.

(h) The commissioner may adopt rules necessary to implement this section, including rules defining local funds.

SECTION \_\_\_\_\_. A transfer of property from an open-enrollment charter school that ceases to operate to another open-enrollment charter school that occurred before the effective date of this Act is ratified if both open-enrollment charter schools classified the property as purchased with state funds on each school's annual financial report under Section 44.008, Education Code.

The amendment to Floor Amendment No. 1 to **CSHB 21** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 13 except as follows:

Nays: West.

Senator Taylor of Galveston offered the following amendment to Floor Amendment No. 1:

#### **Floor Amendment No. 14**

Amend Floor Amendment No. 1 to **CSHB 21** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Section 42.151, Education Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) Notwithstanding Subsection (f), a student who is 18 years of age or older who has met graduation credit requirements and is in an off home campus instructional arrangement is a full-time equivalent student if the student receives 20 hours of contact a week. A student described by this subsection is a part-time equivalent student if the student receives 10 hours or more but less than 20 hours of contact a week. The commissioner may adopt rules necessary to administer this section.

(b) Section 42.151(f-1), Education Code, as added by this Act, applies beginning with the 2017-2018 school year.

The amendment to Floor Amendment No. 1 to **CSHB 21** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 14 except as follows:

Nays: West.

Senator Perry again offered Floor Amendment No. 9.

The amendment to Floor Amendment No. 1 to **CSHB 21** was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 9 except as follows:

Nays: West.

Question recurring on the adoption of Floor Amendment No. 1 to **CSHB 21**, the amendment as amended was adopted by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

**CSHB 21** as amended was passed to third reading by the following vote: Yeas 21, Nays 10. (Same as previous roll call)

### **SENATE RESOLUTION 835**

Senator Campbell offered the following resolution:

**SR 835**, In memory of Scott Deem.

CAMPBELL  
MENÉNDEZ  
URESTI  
ZAFFIRINI

On motion of Senator Campbell, the resolution was read and was adopted by a rising vote of the Senate.

In honor of the memory of Scott Deem, the text of the resolution is printed at the end of today's *Senate Journal*.

### **REMARKS ORDERED PRINTED**

On motion of Senator Campbell and by unanimous consent, the remarks by Senators Campbell, Zaffirini, Uresti, and Menéndez regarding **SR 835** were ordered reduced to writing and printed in the *Senate Journal* as follows:

**Senator Campbell:** Thank you, thank you, Mr. President and Members. It's with a heavy heart that we bring this memorial resolution to honor the late Scott Deem, a San Antonio firefighter who lost his life Thursday night fighting a fire with temperatures approaching 1,100 degrees. Late that night and into Friday morning, San Antonio firefighters were called to contain a fire at Ingram Park Mall and search for potential victims. Risking his own life, firefighter Deem and his fellow firefighters heroically rushed in to extinguish the blaze. As the fire was finally quelled, more than 100 of firefighter Deem's brethren joined in saluting him one last time as the ambulance drove by. Two other San Antonio firefighters were also injured in the blaze, with one currently critical and still in the hospital. I know I speak for all of us in the Senate when I do say thank you to firefighter Scott Deem and all of our first responders for their incredible bravery in the face of danger. And I met the wife yesterday, and she actu— they've got two children and she is six months pregnant. Firefighter Deem was a six-year veteran of San Antonio Fire Department. His son is Tyler and daughter, Dakota, and they're very young. I just ask that we keep all of those that are affected by this terrible tragedy in our thoughts and prayers. The funeral, they believe, will be Friday, not sure. They actually expect somewhere around five million people. Just, they think that it will be people from all over the world. But if that number's right, they're looking at, it just can't be five million, but that's what they said. But anyway, they haven't had a tragedy like this in years. And so, we wanted to bring this to y'all's attention and recognize our firefighters.

**Senator Zaffirini:** Thank you, Mr. President. Mr. President and Members, I join my colleagues of the Bexar County delegation in expressing our deepest sympathies and condolences to the family of Scott Deem. Our hearts also go out to the men and women of the San Antonio Fire Department, the families who support them, all of whom were impacted by Thursday night's tragedy. Scott Deem was a hero who selflessly rushed into danger to try to save persons in the Ingram Square shopping center during the raging 4-alarm fire. He was doing what he had been trained to do, and when he got lost in the smoke, his fellow firefighters fought desperately to save him. Scott was not only a brave firefighter but also a loving husband and a wonderful father. He volunteered regularly and attended school functions, making sure to attend each of his daughter Dakota's volleyball games. This is an emotional time for San Antonio, especially because Scott Deem is the first firefighter to die in the line of duty since May 1997, 20 years ago. The men and women of the San Antonio Fire Department sacrifice so much by putting their lives on the line week after week. Now, it is the community's turn to give back. The outpouring support for the families in the San Antonio Fire Department during this time of grief has been tremendous. This weekend, flowers line the entrance at the Public Safety Headquarters in San Antonio. Community groups have raised thousands of dollars to help the families, and last night, the San Antonio Spurs honored Scott, a dedicated Spurs fan, before the tip-off of their game against the Golden State Warriors. This tremendous show of support is a testament not only to the bravery and courage of Scott Deem and his fellow firefighters, but also to how beloved and respected they are by the San Antonio community. We pray for those who were injured and are still recovering and for all the

families and firefighters who were impacted by this horrible tragedy, including the family of Scott Deem, a hero who gave his life to help protect others. Thank you, Mr. President and Members.

**Senator Uresti:** Thank you, Mr. President, Members. I, too, rise with a heavy heart to offer condolences to the family, the friends, and the fellow firefighters of Scott Deem. I do this on behalf of my family, and especially my brother, Albert, who was a firefighter in the San Antonio Fire Department for 25 years. Members, we go to sleep at night feeling safe and sound in our beds and in our homes, and we can do that because we know that our firefighters work a 24-hour shift, around the clock, to protect us. What firefighter Deem did the other night was what firefighters do every night. Unfortunately and tragically, though, firefighter Deem didn't survive this terrible fire. I can't imagine the shock, the hurt, the loss that his family feels and his firefighter family feels, as well. But I hope that they will find some comfort knowing that he is with our Lord. Members, life is so precious and delicate, so cherish our families and the, keep the Deem family in our prayers. Thank you, Mr. President.

**Senator Menéndez:** Thank you, Mr. President. I also want to rise in support of the resolution for Scott Deem. Our colleagues have said basically everything, so as we adjourn tonight, I would ask that we adjourn in honor of San Antonio firefighter Scott Deem. You know, as Chief Hood was telling people about when they were, when they could tell that the roof was about to cave in, and he put the order in for them to evacuate, to pull out, they said that one of the last firefighters that was one of Scott's best friends, they had to drag him out, that he didn't want to come out. You know, we're blessed to be in this position, to represent 27 million Texans, and every once in a while to do something good. And later tonight, thanks to Senator Huffman, thanks to our President, and, and the Committee on IGR, we're going to get to vote on a bill that's going to, hopefully, benefit the children of Scott Deem and others, for that first responders who are seriously injured or lose their life in the line of duty, so that they can get free pre-K. And it's just a little something that we can do for the Deem family and for others. And so, Mr. President, Members, thank you for making the time for us to be able to do this, to honor the memory of San Antonio firefighter Scott Deem. Thank you, Mr. President.

### HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

**HB 63** to Committee on Health and Human Services.

**HB 279** to Committee on Health and Human Services.

**HB 654** to Committee on Higher Education.

**HB 902** to Committee on Natural Resources and Economic Development.

**HB 1640** to Committee on Education.

**HB 3042** to Committee on Administration.

**HB 3306** to Committee on Business and Commerce.

**HB 3746** to Committee on Agriculture, Water, and Rural Affairs.

**HB 4114** to Committee on Administration.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 2190**

Senator Huffman submitted the following Conference Committee Report:

Austin, Texas  
May 19, 2017

Honorable Dan Patrick  
President of the Senate  
  
Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 2190** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HUFFMAN  
HANCOCK  
NELSON  
SCHWERTNER  
URESTI

FLYNN  
COLEMAN  
MURPHY  
WALLE

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the public retirement systems of certain municipalities.

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

ARTICLE 1. FIREFIGHTERS' RELIEF AND RETIREMENT FUND

SECTION 1.01. Section 1, Article 6243e.2(1), Revised Statutes, is amended by amending Subdivisions (1-a), (1-b), (3), (13-a), (15-a), (15-b), and (16) and adding Subdivisions (1-c), (1-d), (1-e), (1-f), (1-g), (3-a), (3-b), (3-c), (3-d), (10-a), (10-b), (11-a), (12-a), (12-b), (12-c), (12-d), (12-e), (12-f), (12-g), (13-b), (13-c), (13-d), (13-e), (15-c), (15-d), (15-e), (15-f), (16-a), (16-b), (16-c), (16-d), (16-e), and (16-f) to read as follows:

(1-a) "Actuarial data" includes:

(A) the census data, assumption tables, disclosure of methods, and financial information that are routinely used by the fund actuary for the fund's valuation studies or an actuarial experience study under Section 13D of this article;  
and

(B) other data that is reasonably necessary to implement Sections 13A through 13F of this article. ["Average monthly salary" means one thirty-sixth of the member's salary as a firefighter for the member's highest 78 biweekly pay periods during the member's participation in the fund or, if the member has participated in the fund for less than three years, the total salary paid to the member for the periods the member participated in the fund divided by the number of months the member has participated in the fund. If a member is not paid on the basis of biweekly pay periods,

"average monthly salary" is determined on the basis of the number of pay periods under the payroll practices of the municipality sponsoring the fund that most closely correspond to 78 biweekly pay periods.]

(1-b) "Actuarial experience study" has the meaning assigned by Section 802.1014, Government Code [~~"Beneficiary adult child" means a child of a member by birth or adoption who:~~

(A) is not an eligible child; and

(B) is designated a beneficiary of a member's DROP account by valid designation under Section 5(j-1)].

(1-c) "Amortization period" means the time period necessary to fully pay a liability layer.

(1-d) "Amortization rate" means the sum of the scheduled amortization payments for a given fiscal year for the current liability layers divided by the projected pensionable payroll for that fiscal year.

(1-e) "Assumed rate of return" means the assumed market rate of return on fund assets, which is seven percent per annum unless adjusted as provided by this article.

(1-f) "Average monthly salary" means, if the member has participated in the fund for:

(A) three or more years, the total salary received by a member as a firefighter over the member's:

(i) highest 78 biweekly pay periods for a member hired before the year 2017 effective date, including a member who was hired before the year 2017 effective date and who involuntarily separated from service but was retroactively reinstated in accordance with an arbitration, civil service, or court ruling; or

(ii) last 78 biweekly pay periods ending before the earlier of the date the member terminates employment with the fire department, divided by 36, or the member began participation in the DROP, divided by 36; or

(B) fewer than three years, the total salary paid to the member for the periods the member participated in the fund divided by the number of months the member has participated in the fund.

If a member is not paid on the basis of biweekly pay periods, "average monthly salary" is determined on the basis of the number of pay periods under the payroll practices of the municipality sponsoring the fund that most closely correspond to 78 biweekly pay periods.

(1-g) "Beneficiary adult child" means a child of a member by birth or adoption who:

(A) is not an eligible child; and

(B) is designated a beneficiary of a member's DROP account by valid designation under Section 5(j-1).

(3) "Code" means the federal Internal Revenue Code of 1986, as amended.

(3-a) "Confidentiality agreement" means a letter agreement sent from the municipal actuary or an independent actuary in which the municipal actuary or the independent actuary, as applicable, agrees to comply with the confidentiality provisions of this article.

(3-b) "Corridor" means the range of municipal contribution rates that are:

(A) equal to or greater than the minimum contribution rate; and

(B) equal to or less than the maximum contribution rate.

(3-c) "Corridor margin" means five percentage points.

(3-d) "Corridor midpoint" means the projected municipal contribution rate specified for each fiscal year for 31 years in the initial risk sharing valuation study under Section 13C of this article, and as may be adjusted under Section 13E or 13F of this article, and in each case rounded to the nearest hundredths decimal place.

(10-a) "Employer normal cost rate" means the normal cost rate minus the member contribution rate.

(10-b) "Estimated municipal contribution rate" means the municipal contribution rate estimated in a final risk sharing valuation study under Section 13B or 13C of this article, as applicable, as required by Section 13B(a)(5) of this article.

(11-a) "Fiscal year," except as provided by Section 1B of this article, means a fiscal year beginning on July 1 and ending on June 30.

(12-a) "Funded ratio" means the ratio of the fund's actuarial value of assets divided by the fund's actuarial accrued liability.

(12-b) "Legacy liability" means the unfunded actuarial accrued liability:

(A) for the fiscal year ending June 30, 2016, reduced to reflect:

(i) changes to benefits or contributions under this article that took effect on the year 2017 effective date; and

(ii) payments by the municipality and earnings at the assumed rate of return allocated to the legacy liability from July 1, 2016, to July 1, 2017, excluding July 1, 2017; and

(B) for each subsequent fiscal year:

(i) reduced by the contributions for that year allocated to the amortization of the legacy liability; and

(ii) adjusted by the assumed rate of return.

(12-c) "Level percent of payroll method" means the amortization method that defines the amount of the liability layer recognized each fiscal year as a level percent of pensionable payroll until the amount of the liability layer remaining is reduced to zero.

(12-d) "Liability gain layer" means a liability layer that decreases the unfunded actuarial accrued liability.

(12-e) "Liability layer" means the legacy liability established in the initial risk sharing valuation study under Section 13C of this article and the unanticipated change as established in each subsequent risk sharing valuation study prepared under Section 13B of this article.

(12-f) "Liability loss layer" means a liability layer that increases the unfunded actuarial accrued liability. For purposes of this article, the legacy liability is a liability loss layer.

(12-g) "Maximum contribution rate" means the rate equal to the corridor midpoint plus the corridor margin.

(13-a) "Minimum contribution rate" means the rate equal to the corridor midpoint minus the corridor margin ["Normal retirement age" means the earlier of:

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

~~[(B) the age at which the member first attains the age of at least 50 years and at least 10 years of service].~~

(13-b) "Municipality" means a municipality in this state having a population of more than 2 million.

(13-c) "Municipal contribution rate" means a percent of pensionable payroll that is the sum of the employer normal cost rate and the amortization rate for liability layers, except as determined otherwise under the express provisions of Sections 13E and 13F of this article.

(13-d) "Normal cost rate" means the salary weighted average of the individual normal cost rates determined for the current active population plus an allowance for projected administrative expenses. The allowance for projected administrative expenses equals the administrative expenses divided by the pensionable payroll for the previous fiscal year, provided the administrative allowance may not exceed 1.25 percent of the pensionable payroll for the current fiscal year unless agreed to by the municipality.

(13-e) "Normal retirement age" means:

(A) for a member, including a member who was hired before the year 2017 effective date and who involuntarily separated from service but has been retroactively reinstated in accordance with an arbitration, civil service, or court ruling, hired before the year 2017 effective date, the age at which the member attains 20 years of service; or

(B) except as provided by Paragraph (A) of this subdivision, for a member hired or rehired on or after the year 2017 effective date, the age at which the sum of the member's age, in years, and the member's years of participation in the fund equals at least 70.

(15-a) "Payoff year" means the year a liability layer is fully amortized under the amortization period. A payoff year may not be extended or accelerated for a period that is less than one month. [~~"PROP" means the post retirement option plan under Section 5A of this article.~~]

(15-b) "Pensionable payroll" means the aggregate salary of all the firefighters on active service, including all firefighters participating in an alternative retirement plan established under Section 1C of this article, in an applicable fiscal year [~~"PROP account" means the notional account established to reflect the credits and contributions of a member or surviving spouse who has made a PROP election in accordance with Section 5A of this article.~~].

(15-c) "Price inflation assumption" means:

(A) the most recent headline consumer price index 10-year forecast published in the Federal Reserve Bank of Philadelphia Survey of Professional Forecasters; or

(B) if the forecast described by Paragraph (A) of this subdivision is not available, another standard as determined by mutual agreement between the municipality and the board.

(15-d) "Projected pensionable payroll" means the estimated pensionable payroll for the fiscal year beginning 12 months after the date of the risk sharing valuation study prepared under Section 13B of this article at the time of calculation by:

(A) projecting the prior fiscal year's pensionable payroll forward two years using the current payroll growth rate assumptions; and

(B) adjusting, if necessary, for changes in population or other known factors, provided those factors would have a material impact on the calculation, as determined by the board.

(15-e) "PROP" means the post-retirement option plan under Section 5A of this article.

(15-f) "PROP account" means the notional account established to reflect the credits and contributions of a member or surviving spouse who made a PROP election in accordance with Section 5A of this article before the year 2017 effective date.

(16) "Salary" means wages as defined by Section 3401(a) of the code, ~~the amounts includable in gross income of a member~~ plus any amount not includable in gross income under Section 104(a)(1), Section 125, Section 132(f), Section 402(g)(2) [402(e)(3) or (h)], Section 457 [403(b)], or Section 414(h)(2) [414(h)] of the code, except that with respect to amounts earned on or after the year 2017 effective date, salary excludes overtime pay received by a firefighter or the amount by which the salary earned by a firefighter on the basis of the firefighter's appointed position exceeds the salary of the firefighter's highest tested rank.

(16-a) "Third quarter line rate" means the corridor midpoint plus 2.5 percentage points.

(16-b) "Ultimate entry age normal" means an actuarial cost method under which a calculation is made to determine the average uniform and constant percentage rate of contributions that, if applied to the compensation of each member during the entire period of the member's anticipated covered service, would be required to meet the cost of all benefits payable on the member's behalf based on the benefits provisions for newly hired employees. For purposes of this definition, the actuarial accrued liability for each member is the difference between the member's present value of future benefits based on the tier of benefits that apply to the member and the member's present value of future normal costs determined using the normal cost rate.

(16-c) "Unfunded actuarial accrued liability" means the difference between the actuarial accrued liability and the actuarial value of assets. For purposes of this definition:

(A) "actuarial accrued liability" means the portion of the actuarial present value of projected benefits attributed to past periods of member service based on the cost method used in the risk sharing valuation study prepared under Section 13B or 13C of this article, as applicable; and

(B) "actuarial value of assets" means the value of fund investments as calculated using the asset smoothing method used in the risk sharing valuation study prepared under Section 13B or 13C of this article, as applicable.

(16-d) "Unanticipated change" means, with respect to the unfunded actuarial accrued liability in each subsequent risk sharing valuation study prepared under Section 13B of this article, the difference between:

(A) the remaining balance of all then-existing liability layers as of the date of the risk sharing valuation study; and

(B) the actual unfunded actuarial accrued liability as of the date of the risk sharing valuation study.

(16-e) "Unused leave pay" means the accrued value of unused leave time payable to an employee after separation from service in accordance with applicable law and agreements.

(16-f) "Year 2017 effective date" means the date on which S.B. No. 2190, Acts of the 85th Legislature, Regular Session, 2017, took effect.

SECTION 1.02. Article 6243e.2(1), Revised Statutes, is amended by adding Sections 1A, 1B, 1C, 1D, and 1E to read as follows:

Sec. 1A. INTERPRETATION OF ARTICLE. This article, including Sections 2(p) and (p-1) of this article, does not and may not be interpreted to:

(1) relieve the municipality, the board, or the fund of their respective obligations under Sections 13A through 13F of this article;

(2) reduce or modify the rights of the municipality, the board, or the fund, including any officer or employee of the municipality, board, or fund, to enforce obligations described by Subdivision (1) of this section;

(3) relieve the municipality, including any official or employee of the municipality, from:

(A) paying or directing to pay required contributions to the fund under Section 13 or 13A of this article or carrying out the provisions of Sections 13A through 13F of this article; or

(B) reducing or modifying the rights of the board and any officer or employee of the board or fund to enforce obligations described by Subdivision (1) of this section;

(4) relieve the board or fund, including any officer or employee of the board or fund, from any obligation to implement a benefit change or carry out the provisions of Sections 13A through 13F of this article; or

(5) reduce or modify the rights of the municipality and any officer or employee of the municipality to enforce an obligation described by Subdivision (4) of this section.

Sec. 1B. FISCAL YEAR. If either the fund or the municipality changes its respective fiscal year, the fund and the municipality may enter into a written agreement to change the fiscal year for purposes of this article. If the fund and municipality enter into an agreement described by this section, the parties shall, in the agreement, adjust the provisions of Sections 13A through 13F of this article to reflect that change.

Sec. 1C. ALTERNATIVE RETIREMENT PLANS. (a) In this section, "salary-based benefit plan" means a retirement plan provided by the fund under this article that provides member benefits calculated in accordance with a formula that is based on multiple factors, one of which is the member's salary at the time of the member's retirement.

(b) Notwithstanding any other law, including Section 13G of this article, the board and the municipality may enter into a written agreement to offer an alternative retirement plan or plans, including a cash balance retirement plan or plans, if both parties consider it appropriate.

(c) Notwithstanding any other law, including Section 13G of this article, if, beginning with the final risk sharing valuation study prepared under Section 13B of this article on or after July 1, 2021, either the funded ratio of the fund is less than 65

percent as determined in the final risk sharing valuation study without making any adjustments under Section 13E or 13F of this article, or the funded ratio of the fund is less than 65 percent as determined in a revised and restated risk sharing valuation study prepared under Section 13B(a)(7) of this article, the board and the municipality shall, as soon as practicable but not later than the 60th day after the date the determination is made:

(1) enter into a written agreement to establish a cash balance retirement plan that complies with Section 1D of this article; and

(2) require each firefighter first hired by the municipality on or after the 90th day after the date the cash balance retirement plan is established to participate in the cash balance retirement plan established under this subsection instead of participating in the salary-based benefit plan, provided the firefighter would have otherwise been eligible to participate in the salary-based benefit plan.

Sec. 1D. REQUIREMENTS FOR CERTAIN CASH BALANCE RETIREMENT PLANS. (a) In this section:

(1) "Cash balance plan participant" means a firefighter who participates in a cash balance retirement plan.

(2) "Cash balance retirement plan" means a cash balance retirement plan established by written agreement under Section 1C(b) or 1C(c) of this article.

(3) "Interest" means the interest credited to a cash balance plan participant's notional account, which may not:

(A) exceed a percentage rate equal to the cash balance retirement plan's most recent five fiscal years' smoothed rate of return; or

(B) be less than zero percent.

(4) "Salary-based benefit plan" has the meaning assigned by Section 1C of this article.

(b) The written agreement establishing a cash balance retirement plan must:

(1) provide for the administration of the cash balance retirement plan;

(2) provide for a closed amortization period not to exceed 20 years from the date an actuarial gain or loss is realized;

(3) provide for the crediting of municipal and cash balance plan participant contributions to each cash balance plan participant's notional account;

(4) provide for the crediting of interest to each cash balance plan participant's notional account;

(5) include a vesting schedule;

(6) include benefit options, including options for cash balance plan participants who separate from service prior to retirement;

(7) provide for death and disability benefits;

(8) allow a cash balance plan participant who is eligible to retire under the plan to elect to:

(A) receive a monthly annuity payable for the life of the cash balance plan participant in an amount actuarially determined on the date of the cash balance plan participant's retirement based on the cash balance plan participant's accumulated notional account balance annuitized in accordance with the actuarial assumptions and actuarial methods established in the most recent actuarial experience study conducted

under Section 13D of this article, except that the assumed rate of return applied may not exceed the fund's assumed rate of return in the most recent risk sharing valuation study; or

(B) receive a single, partial lump-sum payment from the cash balance plan participant's accumulated notional account balance and a monthly annuity payable for life in an amount determined in accordance with Paragraph (A) of this subdivision based on the cash balance plan participant's notional account balance after receiving the partial lump-sum payment; and

(9) include any other provision determined necessary by:

(A) the board and the municipality; or

(B) the fund for purposes of maintaining the tax-qualified status of the fund under Section 401 of the code.

(c) Notwithstanding any other law, including Section 13 of this article, a firefighter who participates in a cash balance retirement plan:

(1) subject to Subsection (d) of this section, is not eligible to be a member of and may not participate in the fund's salary-based benefit plan; and

(2) may not accrue years of participation or establish service credit in the salary-based benefit plan during the period the firefighter is participating in the cash balance retirement plan.

(d) A cash balance plan participant is considered a member for purposes of Sections 13A through 13H of this article.

(e) At the time the cash balance retirement plan is implemented, the employer normal cost rate of the cash balance retirement plan may not exceed the employer normal cost rate for the salary-based benefit plan.

Sec. 1E. CONFLICT OF LAW. To the extent of a conflict between this article and any other law, this article prevails.

SECTION 1.03. Section 2, Article 6243e.2(1), Revised Statutes, is amended by amending Subsection (b) and adding Subsection (t) to read as follows:

(b) The board of trustees of the fund shall be known as the "(name of municipality) Firefighters' Relief and Retirement Fund Board of Trustees" and the fund shall be known as the "(name of municipality) Firefighters' Relief and Retirement Fund." The board consists of 10 trustees, including:

(1) the mayor or an appointed representative of the mayor;

(2) the director of finance or the director of finance's designee ~~[treasurer]~~ of the municipality or, if there is not a director of finance ~~[treasurer]~~, the highest ranking employee of the municipality, excluding elected officials, with predominately financial responsibilities, as determined by the mayor, or that employee's designee ~~[secretary, clerk, or other person who by law, charter provision, or ordinance performs the duty of treasurer of the municipality];~~

(3) five firefighters who are members of the fund;

(4) one person who is a retired firefighter and a member of the fund with at least 20 years of participation; and

(5) two persons, each of whom is a registered voter of the municipality, has been a resident of the municipality for at least one year preceding the date of initial appointment, and is not a municipal officer or employee.

(t) The officers and employees of the municipality are fully protected and free of liability for any action taken or omission made or any action or omission suffered by them in good faith, objectively determined, in the performance of their duties related to the fund. The protection from liability provided by this subsection is cumulative of and in addition to any other constitutional, statutory, or common law official or governmental immunity, defense, and civil or procedural protection provided to the municipality as a governmental entity and to a municipal official or employee as an official or employee of a governmental entity. Except for a waiver expressly provided by this article, this article does not grant an implied waiver of any immunity.

SECTION 1.04. Article 6243e.2(1), Revised Statutes, is amended by adding Sections 2A and 2B to read as follows:

Sec. 2A. QUALIFICATIONS OF MUNICIPAL ACTUARY. (a) An actuary hired by the municipality for purposes of this article must be an actuary from a professional service firm who:

(1) is not already engaged by the fund or any other pension system authorized under Article 6243g-4, Revised Statutes, or Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), to provide actuarial services to the fund or pension system, as applicable;

(2) has a minimum of 10 years of professional actuarial experience; and

(3) is a fellow of the Society of Actuaries or a member of the American Academy of Actuaries and who, in carrying out duties for the municipality, has met the applicable requirements to issue statements of actuarial opinion.

(b) Notwithstanding Subsection (a) of this section, the municipal actuary does not need to meet any greater qualifications than those required by the board for the fund actuary.

Sec. 2B. REPORT ON INVESTMENTS BY INDEPENDENT INVESTMENT CONSULTANT. At least once every three years, the board shall hire an independent investment consultant to conduct a review of fund investments and submit a report to the board and the municipality concerning the review or demonstrate in the fund's annual financial report that the review was conducted. The independent investment consultant shall review and report on at least the following:

(1) the fund's compliance with its investment policy statement, ethics policies, including policies concerning the acceptance of gifts, and policies concerning insider trading;

(2) the fund's asset allocation, including a review and discussion of the various risks, objectives, and expected future cash flows;

(3) the fund's portfolio structure, including the fund's need for liquidity, cash income, real return, and inflation protection and the active, passive, or index approaches for different portions of the portfolio;

(4) investment manager performance reviews and an evaluation of the processes used to retain and evaluate managers;

(5) benchmarks used for each asset class and individual manager;

(6) an evaluation of fees and trading costs;

(7) an evaluation of any leverage, foreign exchange, or other hedging transaction; and

(8) an evaluation of investment-related disclosures in the fund's annual reports.

SECTION 1.05. Section 3(d), Article 6243e.2(1), Revised Statutes, is amended to read as follows:

(d) The board may have an actuarial valuation performed each year, and for determining the municipality's contribution rate as provided by Section 13A ~~[13(d)]~~ of this article, the board may adopt a new actuarial valuation each year ~~[-, except that an actuarial valuation that will result in an increased municipal contribution rate that is above the statutory minimum may be adopted only once every three years, unless the governing body of the municipality consents to a more frequent increase].~~

SECTION 1.06. Article 6243e.2(1), Revised Statutes, is amended by adding Section 3A to read as follows:

Sec. 3A. CERTAIN ALTERATIONS BY LOCAL AGREEMENT. (a) Except as provided by Subsection (b) of this section, the board is authorized, on behalf of the members or beneficiaries of the fund, to alter benefit types or amounts, the means of determining contribution rates, or the contribution rates provided under this article if the alteration is included in a written agreement between the board and the municipality. An agreement entered into under this section:

(1) must:

(A) if the agreement concerns benefit increases, other than benefit increases that are the result of Section 13E of this article, adhere to the processes and standards set forth in Section 10 of this article; and

(B) operate prospectively only; and

(2) may not, except as provided by Sections 13A through 13F of this article, have the effect or result of increasing the unfunded liability of the fund.

(b) In a written agreement entered into between the municipality and the board under this section, the parties may not:

(1) alter Sections 13A through 13F of this article, except and only to the extent necessary to comply with federal law;

(2) increase the assumed rate of return to more than seven percent per year;

(3) extend the amortization period of a liability layer to more than 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability layer is first recognized; or

(4) allow a municipal contribution rate in any year that is less than or greater than the municipal contribution rate required under Section 13E or 13F of this article, as applicable.

(c) If the board is directed or authorized in Sections 13A through 13F of this article to effect an increase or decrease to benefits or contributions, this article delegates the authority to alter provisions concerning benefits and contributions otherwise stated in this article in accordance with the direction or authorization only to the extent the alteration is set forth in an order or other written instrument and is consistent with this section, the code, and other applicable federal law and regulations. The order or other written instrument must be included in each applicable risk sharing valuation study under Section 13B or 13C of this article, as applicable, adopted by the board, and published in a manner that makes the order or other written instrument accessible to the members.

SECTION 1.07. Section 4, Article 6243e.2(1), Revised Statutes, is amended by amending Subsections (a), (b), and (d) and adding Subsections (b-1) and (b-2) to read as follows:

(a) A member ~~[with at least 20 years of participation]~~ who terminates active service for any reason other than death is entitled to receive a service pension provided by this section if the member was:

(1) hired as a firefighter before the year 2017 effective date, including a member who was hired before the year 2017 effective date and who involuntarily separated from service but has been retroactively reinstated in accordance with an arbitration, civil service, or court ruling, at the age at which the member attains 20 years of service; and

(2) except as provided by Subdivision (1) of this subsection and subject to Subsection (b-2) of this section, hired or rehired as a firefighter on or after the year 2017 effective date, when the sum of the member's age in years and the member's years of participation in the fund equals at least 70.

(b) Except as otherwise provided by Subsection (d) of this section, the monthly service pension for a member described by:

(1) Subsection (a)(1) of this section is equal to the sum of:

(A) the member's accrued monthly service pension based on the member's years of participation before the year 2017 effective date, determined under the law in effect on the date immediately preceding the year 2017 effective date;

(B) 2.75 percent of the member's average monthly salary multiplied by the member's years of participation on or after the year 2017 effective date, for each year or partial year of participation of the member's first 20 years of participation; and

(C) two percent of the member's average monthly salary multiplied by the member's years of participation on or after the year 2017 effective date, for each year or partial year of participation on or after the year 2017 effective date that occurred after the 20 years of participation described by Paragraph (B) of this subdivision; and

(2) Subsection (a)(2) of this section is equal to the sum of:

(A) 2.25 percent of the member's average monthly salary multiplied by the member's years or partial years of participation for the member's first 20 years of participation; and

(B) two percent of the member's average monthly salary multiplied by the member's years or partial years of participation for all years of participation that occurred after the 20 years of participation described by Paragraph (A) of this subdivision.

(b-1) For purposes of Subsection (b) of this section, partial years shall be computed to the nearest one-twelfth of a year.

(b-2) A member's monthly service pension under Subsection (a)(2) of this section may not exceed 80 percent of the member's average monthly salary ~~[A member who terminates active service on or after November 1, 1997, and who has completed at least 20 years of participation in the fund on the effective date of termination of service is entitled to a monthly service pension, beginning after the effective date of termination of active service, in an amount equal to 50 percent of the member's average monthly salary, plus three percent of the member's average~~

~~monthly salary for each year of participation in excess of 20 years, but not in excess of 30 years of participation, for a maximum total benefit of 80 percent of the member's average monthly salary].~~

(d) The total monthly benefit payable to a retired or disabled member, other than a deferred retiree or active member who has elected the DROP under Section 5(b) of this article, or payable to an eligible survivor of a deceased member as provided by Section 7(a) or 7(b) of this article, shall be increased by the following amounts: by \$100, beginning with the monthly payment made for July 1999; by \$25, beginning with the monthly payment made for July, 2000; and by \$25, beginning with the monthly payment made for July 2001. These additional benefits may not be increased under Section 11(c), (c-1), or (c-2) of this article.

SECTION 1.08. Section 5, Article 6243e.2(1), Revised Statutes, is amended by amending Subsections (a), (b), (c), (d), and (m) and adding Subsections (a-1), (b-1), (b-2), (d-1), (d-2), and (e-1) to read as follows:

(a) A member who is eligible to receive a service pension under Section 4(a)(1) [4] of this article and who remains in active service may elect to participate in the deferred retirement option plan provided by this section. A member who is eligible to receive a service pension under Section 4(a)(2) of this article may not elect to participate in the deferred retirement option plan provided by this section. On subsequently terminating active service, a member who elected the DROP may apply for a monthly service pension under Section 4 of this article, except that the effective date of the member's election to participate in the DROP will be considered the member's retirement date for determining the amount of the member's monthly service pension. The member may also apply for any DROP benefit provided under this section on terminating active service. An election to participate in the DROP, once approved by the board, is irrevocable.

(a-1) The monthly benefit of a [A] DROP participant who has at least 20 years of participation on the year 2017 effective date [participant's monthly benefit at retirement] is increased at retirement by two percent of the amount of the member's original benefit for every full year of participation in the DROP by the member for up to 10 years of participation in the DROP. For a member's final year of participation, but not beyond the member's 10th year in the DROP, if a full year of participation is not completed, the member shall receive a prorated increase of 0.166 percent of the member's original benefit for each month of participation in that year. An increase provided by this subsection does not apply to benefits payable under Subsection (l) of this section. An increase under this subsection is applied to the member's benefit at retirement and is not added to the member's DROP account. The total increase under this subsection may not exceed 20 percent for 10 years of participation in the DROP by the member.

(b) A member may elect to participate in the DROP by complying with the election process established by the board. The member's election may be made at any time beginning on the date the member has completed 20 years of participation in the fund and is otherwise eligible for a service pension under Section 4(a)(1) [4] of this article. [The election becomes effective on the first day of the month following the month in which the board approves the member's DROP election.] Beginning on the first day of the month following the month in which the member makes an election to

participate in the DROP, subject to board approval, and ending on the year 2017 effective date [of the member's DROP election], amounts equal to the deductions made from the member's salary under Section 13(c) of this article shall be credited to the member's DROP account. Beginning after the year 2017 effective date, amounts equal to the deductions made from the member's salary under Section 13(c) of this article may not be credited to the member's DROP account.

(b-1) On or after the year 2017 effective date, an active [A] member may not participate in the DROP for more than 13 [10] years. If a DROP participant remains in active service after the 13th [10th] anniversary of the effective date of the member's DROP election:

(1) [7] subsequent deductions from the member's salary under Section 13(c) of this article, except for unused leave pay, may not be credited to the member's DROP account; and

(2) the account shall continue to be credited with earnings in accordance with Subsection (d) of this section [and may not otherwise increase any benefit payable from the fund for the member's service].

(b-2) For a member who is a DROP participant, the fund shall credit to the member's DROP account, in accordance with Section 13(c-1) of this article, the amount of unused leave pay otherwise payable to the member and received as a contribution to the fund from the municipality.

(c) After a member's DROP election becomes effective, an amount equal to the monthly service pension the member would have received under Section 4 of this article [and Section 11(e) of this article], if applicable, had the member terminated active service on the effective date of the member's DROP election shall be credited to a DROP account maintained for the member. That monthly credit to the member's DROP account shall continue until the earlier of the date the member terminates active service or the 13th [10th] anniversary of the [effective] date of the first credit to the member's DROP account [election].

(d) A member's DROP account shall be credited with earnings at an annual rate equal to 65 percent of the compounded average annual return earned by the fund over the five years preceding, but not including, the year during which the credit is given. Notwithstanding the preceding, however, the credit to the member's DROP account shall be at an annual rate of not less than 2.5 [five] percent [nor greater than 10 percent], irrespective of actual earnings.

(d-1) Earnings credited to a member's DROP account under Subsection (d) of this section [Those earnings] shall be computed and credited at a time and in a manner determined by the board, except that earnings shall be credited not less frequently than once in each 13-month period and shall take into account partial years of participation in the DROP[. If the member has not terminated active service, the member's DROP account may not be credited with earnings after the 10th anniversary of the effective date of the member's DROP election].

(d-2) A member may not roll over accumulated unused sick or vacation time paid to the member as a lump-sum payment after termination of active service into the member's DROP account.

(e-1) In lieu of receiving a lump-sum payment on termination from active service, a retired member who has been a DROP participant or, if termination from active service was due to the DROP participant's death, the surviving spouse of the DROP participant may elect to leave the retired member's DROP account with the fund and receive earnings credited to the DROP account in the manner described by Subsection (d) of this section.

(m) A DROP participant with a break in service may receive service credit within DROP for days worked after the regular expiration of the maximum [permitted] DROP participation period prescribed by this section. The service credit shall be limited to the number of days in which the participant experienced a break in service or the number of days required to constitute 13 [14] years of DROP participation, whichever is smaller. A retired member who previously participated in the DROP and who returns to active service is subject to the terms of this section in effect at the time of the member's return to active service.

SECTION 1.09. Section 5A, Article 6243e.2(1), Revised Statutes, is amended by adding Subsection (o) to read as follows:

(o) Notwithstanding any other provision of this article, on or after the year 2017 effective date:

(1) a PROP participant may not have any additional amounts that the participant would otherwise receive as a monthly service pension or other benefits under this article credited to the participant's PROP account; and

(2) a person, including a member or surviving spouse, may not elect to participate in the PROP.

SECTION 1.10. Section 8, Article 6243e.2(1), Revised Statutes, is amended to read as follows:

Sec. 8. DEFERRED PENSION AT AGE 50; REFUND OF CONTRIBUTIONS.

(a) On or after the year 2017 effective date, a [A] member who is hired as a firefighter before the year 2017 effective date, including a member who was hired before the year 2017 effective date and who involuntarily separated from service but has been retroactively reinstated in accordance with an arbitration, civil service, or court ruling, terminates active service for any reason other than death with at least 10 years of participation, but less than 20 years of participation, is entitled to a monthly deferred pension benefit, beginning at age 50, in an amount equal to 1.7 percent of the member's average monthly salary multiplied by the amount of the member's years of participation.

(b) In lieu of the deferred pension benefit provided under Subsection (a) of this section, a member who terminates active service for any reason other than death with at least 10 years of participation, but less than 20 years of participation, may elect to receive a lump-sum refund of the member's contributions to the fund with interest computed at five percent, not compounded, for the member's contributions to the fund made before the year 2017 effective date and without interest for the member's contributions to the fund made on or after the year 2017 effective date. A member's election to receive a refund of contributions must be made on a form approved by the board. The member's refund shall be paid as soon as administratively practicable after the member's election is received.

(c) Except as provided by Subsection (a) of this section, a [A] member who is hired or rehired as a firefighter on or after the year 2017 effective date or a member who terminates employment for any reason other than death before the member has completed 10 years of participation is entitled only to a refund of the member's contributions without interest and is not entitled to a deferred pension benefit under this section or to any other benefit under this article. The member's refund shall be paid as soon as administratively practicable after the effective date of the member's termination of active service.

SECTION 1.11. Section 11, Article 6243e.2(1), Revised Statutes, is amended by amending Subsection (c) and adding Subsections (c-1), (c-2), (c-3), and (c-4) to read as follows:

(c) Subject to Subsection (c-3) of this section and except as provided by Subsection (c-4) of this section, beginning with the fiscal year ending June 30, 2021, the [The] benefits, including survivor benefits, payable based on the service of a member who has terminated active service and who is or would have been at least 55 [48] years old, received or is receiving an on-duty disability pension under Section 6(c) of this article, or died under the conditions described by Section 7(c) of this article, shall be increased [by three percent] in October of each year by a percentage rate equal to the most recent five fiscal years' smoothed return, as determined by the fund actuary, minus 475 basis points [and, if the benefit had not previously been subject to that adjustment, in the month of the member's 48th birthday].

(c-1) Subject to Subsection (c-3) of this section and except as provided by Subsection (c-4) of this section, for the fund's fiscal years ending June 30, 2018, and June 30, 2019, the benefits, including survivor benefits, payable based on the service of a member who is or would have been at least 70 years old and who received or is receiving a service pension under Section 4 of this article, received or is receiving an on-duty disability pension under Section 6(c) of this article, or died under the conditions described by Section 7(c) of this article, shall be adjusted in October of each applicable fiscal year by a percentage rate equal to the most recent five fiscal years' smoothed return, as determined by the fund actuary, minus 500 basis points.

(c-2) Subject to Subsection (c-3) of this section and except as provided by Subsection (c-4) of this section, for the fund's fiscal year ending June 30, 2020, members described by Subsection (c-1) of this section shall receive the increase provided under Subsection (c) of this section.

(c-3) The percentage rate prescribed by Subsections (c), (c-1), and (c-2) of this section may not be less than zero percent or more than four percent, irrespective of the return rate of the fund's investment portfolio.

(c-4) Each year after the year 2017 effective date, a member who elects to participate in the DROP under Section 5 of this article may not receive the increase provided under Subsection (c), (c-1), or (c-2) of this section in any October during which the member participates in the DROP.

SECTION 1.12. The heading to Section 13, Article 6243e.2(1), Revised Statutes, is amended to read as follows:

Sec. 13. MEMBERSHIP AND MEMBER CONTRIBUTIONS.

SECTION 1.13. Section 13, Article 6243e.2(1), Revised Statutes, is amended by amending Subsection (c) and adding Subsections (c-1) and (c-2) to read as follows:

(c) Subject to adjustments authorized by Section 13E or 13F of this article, each ~~[Each]~~ member in active service shall make contributions to the fund in an amount equal to 10.5 [8.35] percent of the member's salary at the time of the contribution[; and as of July 1, 2004, in an amount equal to nine percent of the member's salary at the time of the contribution].

(c-1) In addition to the contribution under Subsection (c) of this section, each DROP participant, as identified by the fund to the municipality for purposes of this subsection, shall contribute to the fund an amount equal to 100 percent of the participant's unused leave pay that would otherwise be payable to the member. The fund shall credit any unused leave pay amount contributed by a DROP participant to the participant's DROP account.

(c-2) The governing body of the municipality shall deduct from the salary of each member the contribution required by this section [the contributions from the member's salary] and shall forward the contributions to the fund as soon as practicable.

SECTION 1.14. Article 6243e.2(1), Revised Statutes, is amended by adding Sections 13A, 13B, 13C, 13D, 13E, 13F, 13G, and 13H to read as follows:

Sec. 13A. MUNICIPAL CONTRIBUTIONS. (a) Beginning with the year 2017 effective date, the municipality shall make contributions to the fund as provided by this section and Section 13B, 13C, 13E, or 13F of this article, as applicable. The municipality shall contribute:

(1) beginning with the year 2017 effective date and ending with the fiscal year ending June 30, 2018, an amount equal to the municipal contribution rate, as determined in the initial risk sharing valuation study conducted under Section 13C of this article and adjusted under Section 13E or 13F of this article, as applicable, multiplied by the pensionable payroll for the fiscal year; and

(2) for each fiscal year after the fiscal year ending June 30, 2018, an amount equal to the municipal contribution rate, as determined in a subsequent risk sharing valuation study conducted under Section 13B of this article and adjusted under Section 13E or 13F of this article, as applicable, multiplied by the pensionable payroll for the applicable fiscal year.

(b) Except by written agreement between the municipality and the board providing for an earlier contribution date, at least biweekly, the municipality shall make the contributions required by Subsection (a) of this section by depositing with the fund an amount equal to the municipal contribution rate multiplied by the pensionable payroll for the applicable biweekly period.

(c) With respect to each fiscal year:

(1) the first contribution by the municipality under this section for the fiscal year shall be made not later than the date payment is made to firefighters for their first full biweekly pay period beginning on or after the first day of the fiscal year; and

(2) the final contribution by the municipality under this section for the fiscal year shall be made not later than the date payment is made to firefighters for the final biweekly pay period of the fiscal year.

(d) In addition to the amounts required under this section, the municipality may at any time contribute additional amounts for deposit in the fund by entering into a written agreement with the board.

(e) Notwithstanding any other law, the municipality may not issue a pension obligation bond to fund the municipal contribution rate under this section.

Sec. 13B. RISK SHARING VALUATION STUDIES. (a) The fund and the municipality shall separately cause their respective actuaries to prepare a risk sharing valuation study in accordance with this section and actuarial standards of practice. A risk sharing valuation study must:

(1) be dated as of the first day of the fiscal year in which the study is required to be prepared;

(2) be included in the fund's standard valuation study prepared annually for the fund;

(3) calculate the unfunded actuarial accrued liability of the fund;

(4) be based on actuarial data provided by the fund actuary or, if actuarial data is not provided, on estimates of actuarial data;

(5) estimate the municipal contribution rate, taking into account any adjustments required under Section 13E or 13F of this article for all applicable prior fiscal years;

(6) subject to Subsection (g) of this section, be based on the following assumptions and methods that are consistent with actuarial standards of practice:

(A) an ultimate entry age normal actuarial method;

(B) for purposes of determining the actuarial value of assets:

(i) except as provided by Subparagraph (ii) of this paragraph and Section 13E(c)(1) or 13F(c)(2) of this article, an asset smoothing method recognizing actuarial losses and gains over a five-year period applied prospectively beginning on the year 2017 effective date; and

(ii) for the initial risk sharing valuation study prepared under Section 13C of this article, a marked-to-market method applied as of June 30, 2016;

(C) closed layered amortization of liability layers to ensure that the amortization period for each layer begins 12 months after the date of the risk sharing valuation study in which the liability layer is first recognized;

(D) each liability layer is assigned an amortization period;

(E) each liability loss layer amortized over a period of 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability loss layer is first recognized, except that the legacy liability must be amortized from July 1, 2016, for a 30-year period beginning July 1, 2017;

(F) the amortization period for each liability gain layer being:

(i) equal to the remaining amortization period on the largest remaining liability loss layer and the two layers must be treated as one layer such that if the payoff year of the liability loss layer is accelerated or extended, the payoff year of the liability gain layer is also accelerated or extended; or

(ii) if there is no liability loss layer, a period of 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability gain layer is first recognized;

(G) liability layers, including the legacy liability, funded according to the level percent of payroll method;

(H) the assumed rate of return, subject to adjustment under Section 13E(c)(2) of this article or, if Section 13C(g) of this article applies, adjustment in accordance with a written agreement, except the assumed rate of return may not exceed seven percent per annum;

(I) the price inflation assumption as of the most recent actuarial experience study, which may be reset by the board by plus or minus 50 basis points based on that actuarial experience study;

(J) projected salary increases and payroll growth rate set in consultation with the municipality's finance director; and

(K) payroll for purposes of determining the corridor midpoint and municipal contribution rate must be projected using the annual payroll growth rate assumption, which for purposes of preparing any amortization schedule may not exceed three percent; and

(7) be revised and restated, if appropriate, not later than:

(A) the date required by a written agreement entered into between the municipality and the board; or

(B) the 30th day after the date required action is taken by the board under Section 13E or 13F of this article to reflect any changes required by either section.

(b) As soon as practicable after the end of a fiscal year, the fund actuary at the direction of the fund and the municipal actuary at the direction of the municipality shall separately prepare a proposed risk sharing valuation study based on the fiscal year that just ended.

(c) Not later than September 30 following the end of the fiscal year, the fund shall provide to the municipal actuary, under a confidentiality agreement in which the municipal actuary agrees to comply with the confidentiality provisions of Section 17 of this article, the actuarial data described by Subsection (a)(4) of this section.

(d) Not later than the 150th day after the last day of the fiscal year:

(1) the fund actuary, at the direction of the fund, shall provide the proposed risk sharing valuation study prepared by the fund actuary under Subsection (b) of this section to the municipal actuary; and

(2) the municipal actuary, at the direction of the municipality, shall provide the proposed risk sharing valuation study prepared by the municipal actuary under Subsection (b) of this section to the fund actuary.

(e) Each actuary described by Subsection (d) of this section may provide copies of the proposed risk sharing valuation studies to the municipality or to the fund, as appropriate.

(f) If, after exchanging proposed risk sharing valuation studies under Subsection (d) of this section, it is found that the difference between the estimated municipal contribution rate recommended in the proposed risk sharing valuation study prepared by the fund actuary and the estimated municipal contribution rate recommended in the proposed risk sharing valuation study prepared by the municipal actuary for the corresponding fiscal year is:

(1) less than or equal to two percentage points, the estimated municipal contribution rate recommended by the fund actuary will be the estimated municipal contribution rate for purposes of Subsection (a)(5) of this section, and the proposed risk sharing valuation study prepared for the fund is considered to be the final risk sharing valuation study for the fiscal year for the purposes of this article; or

(2) greater than two percentage points, the municipal actuary and the fund actuary shall have 20 business days to reconcile the difference, provided that, without the mutual agreement of both actuaries, the difference in the estimated municipal contribution rate recommended by the municipal actuary and the estimated municipal contribution rate recommended by the fund actuary may not be further increased and:

(A) if, as a result of reconciliation efforts under this subdivision, the difference is reduced to less than or equal to two percentage points:

(i) subject to any adjustments under Section 13E or 13F of this article, as applicable, the estimated municipal contribution rate proposed under the reconciliation by the fund actuary will be the estimated municipal contribution rate for purposes of Subsection (a)(5) of this section; and

(ii) the fund's risk sharing valuation study is considered to be the final risk sharing valuation study for the fiscal year for the purposes of this article; or

(B) if, after 20 business days, the fund actuary and the municipal actuary are not able to reach a reconciliation that reduces the difference to an amount less than or equal to two percentage points, subject to any adjustments under Section 13E or 13F of this article, as applicable:

(i) the municipal actuary at the direction of the municipality and the fund actuary at the direction of the fund each shall deliver to the finance director of the municipality and the executive director of the fund a final risk sharing valuation study with any agreed-to changes, marked as the final risk sharing valuation study for each actuary; and

(ii) not later than the 90th day before the first day of the next fiscal year, the finance director and the executive director shall execute a joint addendum to the final risk sharing valuation study received under Subparagraph (i) of this paragraph that is a part of the final risk sharing valuation study for the fiscal year for all purposes and reflects the arithmetic average of the estimated municipal contribution rates for the fiscal year stated by the municipal actuary and the fund actuary in the final risk sharing valuation study for purposes of Subsection (a)(5) of this section.

(g) The assumptions and methods used and the types of actuarial data and financial information used to prepare the initial risk sharing valuation study under Section 13C of this article shall be used to prepare each subsequent risk sharing valuation study under this section, unless changed based on the actuarial experience study conducted under Section 13D of this article.

(h) The actuarial data provided under Subsection (a)(4) of this section may not include the identifying information of individual members.

Sec. 13C. INITIAL RISK SHARING VALUATION STUDIES; CORRIDOR MIDPOINT. (a) The fund and the municipality shall separately cause their respective actuaries to prepare an initial risk sharing valuation study that is dated as of July 1, 2016, in accordance with this section. An initial risk sharing valuation study must:

(1) except as otherwise provided by this section, be prepared in accordance with Section 13B of this article and, for purposes of Section 13B(a)(4) of this article, be based on actuarial data as of June 30, 2016, or, if actuarial data is not provided, on estimates of actuarial data; and

(2) project the corridor midpoint for 31 fiscal years beginning with the fiscal year beginning July 1, 2017.

(b) If the initial risk sharing valuation study has not been prepared consistent with this section before the year 2017 effective date, as soon as practicable after the year 2017 effective date:

(1) the fund shall provide to the municipal actuary, under a confidentiality agreement, the necessary actuarial data used by the fund actuary to prepare the proposed initial risk sharing valuation study; and

(2) not later than the 30th day after the date the municipal actuary receives the actuarial data:

(A) the municipal actuary, at the direction of the municipality, shall provide a proposed initial risk sharing valuation study to the fund actuary; and

(B) the fund actuary, at the direction of the fund, shall provide a proposed initial risk sharing valuation study to the municipal actuary.

(c) If, after exchanging proposed initial risk sharing valuation studies under Subsection (b)(2) of this section, it is determined that the difference between the estimated municipal contribution rate for any fiscal year recommended in the proposed initial risk sharing valuation study prepared by the fund actuary and the estimated municipal contribution rate for any fiscal year recommended in the proposed initial risk sharing valuation study prepared by the municipal actuary is:

(1) less than or equal to two percentage points, the estimated municipal contribution rate for that fiscal year recommended by the fund actuary will be the estimated municipal contribution rate for purposes of Section 13B(a)(5) of this article; or

(2) greater than two percentage points, the municipal actuary and the fund actuary shall have 20 business days to reconcile the difference and:

(A) if, as a result of reconciliation efforts under this subdivision, the difference in any fiscal year is reduced to less than or equal to two percentage points, the estimated municipal contribution rate recommended by the fund actuary for that fiscal year will be the estimated municipal contribution rate for purposes of Section 13B(a)(5) of this article; or

(B) if, after 20 business days, the municipal actuary and the fund actuary are not able to reach a reconciliation that reduces the difference to an amount less than or equal to two percentage points for any fiscal year:

(i) the municipal actuary at the direction of the municipality and the fund actuary at the direction of the fund each shall deliver to the finance director of the municipality and the executive director of the fund a final initial risk sharing valuation study with any agreed-to changes, marked as the final initial risk sharing valuation study for each actuary; and

(ii) the finance director and the executive director shall execute a joint addendum to the final initial risk sharing valuation study that is a part of each final initial risk sharing valuation study for all purposes and that reflects the arithmetic

average of the estimated municipal contribution rate for each fiscal year in which the difference was greater than two percentage points for purposes of Section 13B(a)(5) of this article.

(d) In preparing the initial risk sharing valuation study, the municipal actuary and fund actuary shall:

(1) adjust the actuarial value of assets to be equal to the market value of assets as of July 1, 2016; and

(2) assume benefit and contribution changes under this article as of the year 2017 effective date.

(e) If the municipal actuary does not prepare an initial risk sharing valuation study for purposes of this section, the fund actuary's initial risk sharing valuation study will be used as the final risk sharing valuation study for purposes of this article unless the municipality did not prepare a proposed initial risk sharing valuation study because the fund actuary did not provide the necessary actuarial data in a timely manner. If the municipality did not prepare a proposed initial risk sharing valuation study because the fund actuary did not provide the necessary actuarial data in a timely manner, the municipal actuary shall have 60 days to prepare the proposed initial risk sharing valuation study on receipt of the necessary information.

(f) If the fund actuary does not prepare a proposed initial risk sharing valuation study for purposes of this section, the proposed initial risk sharing valuation study prepared by the municipal actuary will be the final risk sharing valuation study for purposes of this article.

(g) The municipality and the board may agree on a written transition plan for resetting the corridor midpoint:

(1) if at any time the funded ratio is equal to or greater than 100 percent; or

(2) for any fiscal year after the payoff year of the legacy liability.

(h) If the municipality and the board have not entered into an agreement described by Subsection (g) of this section in a given fiscal year, the corridor midpoint will be the corridor midpoint determined for the 31st fiscal year in the initial risk sharing valuation study prepared in accordance with this section.

(i) If the municipality makes a contribution to the fund of at least \$5 million more than the amount that would be required by Section 13A(a) of this article, a liability gain layer with the same remaining amortization period as the legacy liability is created and the corridor midpoint shall be decreased by the amortized amount in each fiscal year covered by the liability gain layer produced divided by the projected pensionable payroll.

Sec. 13D. ACTUARIAL EXPERIENCE STUDIES. (a) At least once every four years, the fund actuary at the direction of the fund shall conduct an actuarial experience study in accordance with actuarial standards of practice. The actuarial experience study required by this subsection must be completed not later than September 30 of the year in which the study is required to be conducted.

(b) Except as otherwise expressly provided by Sections 13B(a)(6)(A)-(I) of this article, actuarial assumptions and methods used in the preparation of a risk sharing valuation study, other than the initial risk sharing valuation study, shall be based on the results of the most recent actuarial experience study.

(c) Not later than the 180th day before the date the board may consider adopting any assumptions and methods for purposes of Section 13B of this article, the fund shall provide the municipal actuary with a substantially final draft of the fund's actuarial experience study, including:

(1) all assumptions and methods recommended by the fund actuary; and

(2) summaries of the reconciled actuarial data used in creation of the actuarial experience study.

(d) Not later than the 60th day after the date the municipality receives the final draft of the fund's actuarial experience study under Subsection (c) of this section, the municipal actuary and fund actuary shall confer and cooperate on reconciling and producing a final actuarial experience study. During the period prescribed by this subsection, the fund actuary may modify the recommended assumptions in the draft actuarial experience study to reflect any changes to assumptions and methods to which the fund actuary and the municipal actuary agree.

(e) At the municipal actuary's written request, the fund shall provide additional actuarial data used by the fund actuary to prepare the draft actuarial experience study, provided that confidential data may only be provided subject to a confidentiality agreement in which the municipal actuary agrees to comply with the confidentiality provisions of Section 17 of this article.

(f) The municipal actuary at the direction of the municipality shall provide in writing to the fund actuary and the fund:

(1) any assumptions and methods recommended by the municipal actuary that differ from the assumptions and methods recommended by the fund actuary; and

(2) the municipal actuary's rationale for each method or assumption the actuary recommends and determines to be consistent with standards adopted by the Actuarial Standards Board.

(g) Not later than the 30th day after the date the fund actuary receives the municipal actuary's written recommended assumptions and methods and rationale under Subsection (f) of this section, the fund shall provide a written response to the municipality identifying any assumption or method recommended by the municipal actuary that the fund does not accept. If any assumption or method is not accepted, the fund shall recommend to the municipality the names of three independent actuaries for purposes of this section.

(h) An actuary may only be recommended, selected, or engaged by the fund as an independent actuary under this section if the person:

(1) is not already engaged by the municipality, the fund, or any other pension system authorized under Article 6243g-4, Revised Statutes, or Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), to provide actuarial services to the municipality, the fund, or another pension system referenced in this subdivision;

(2) is a member of the American Academy of Actuaries; and

(3) has at least five years of experience as an actuary working with one or more public retirement systems with assets in excess of \$1 billion.

(i) Not later than the 20th day after the date the municipality receives the list of three independent actuaries under Subsection (g) of this section, the municipality shall identify and the fund shall hire one of the listed independent actuaries on terms

acceptable to the municipality and the fund to perform a scope of work acceptable to the municipality and the fund. The municipality and the fund each shall pay 50 percent of the cost of the independent actuary engaged under this subsection. The municipality shall be provided the opportunity to participate in any communications between the independent actuary and the fund concerning the engagement, engagement terms, or performance of the terms of the engagement.

(j) The independent actuary engaged under Subsection (i) of this section shall receive on request from the municipality or the fund:

(1) the fund's draft actuarial experience study, including all assumptions and methods recommended by the fund actuary;

(2) summaries of the reconciled actuarial data used to prepare the draft actuarial experience study;

(3) the municipal actuary's specific recommended assumptions and methods together with the municipal actuary's written rationale for each recommendation;

(4) the fund actuary's written rationale for its recommendations; and

(5) if requested by the independent actuary and subject to a confidentiality agreement in which the independent actuary agrees to comply with the confidentiality provisions of Section 17 of this article, additional confidential actuarial data.

(k) Not later than the 30th day after the date the independent actuary receives all the requested information under Subsection (j) of this section, the independent actuary shall advise the fund and the municipality whether it agrees with the assumption or method recommended by the municipal actuary or the corresponding method or assumption recommended by the fund actuary, together with the independent actuary's rationale for making the determination. During the period prescribed by this subsection, the independent actuary may discuss recommendations in simultaneous consultation with the fund actuary and the municipal actuary.

(l) The fund and the municipality may not seek any information from any prospective independent actuary about possible outcomes of the independent actuary's review.

(m) If an independent actuary has questions or concerns regarding an engagement entered into under this section, the independent actuary shall simultaneously consult with both the municipal actuary and the fund actuary regarding the questions or concerns. This subsection does not limit the fund's authorization to take appropriate steps to complete the engagement of the independent actuary on terms acceptable to both the fund and the municipality or to enter into a confidentiality agreement with the independent actuary, if needed.

(n) If the board does not adopt an assumption or method recommended by the municipal actuary to which the independent actuary agrees, or recommended by the fund actuary, the municipal actuary is authorized to use that recommended assumption or method in connection with preparation of a subsequent risk sharing valuation study under Section 13B of this article until the next actuarial experience study is conducted.

Sec. 13E. MUNICIPAL CONTRIBUTION RATE WHEN ESTIMATED MUNICIPAL CONTRIBUTION RATE LOWER THAN CORRIDOR MIDPOINT; AUTHORIZATION FOR CERTAIN ADJUSTMENTS. (a) This section governs the determination of the municipal contribution rate applicable in a fiscal year if the estimated municipal contribution rate is lower than the corridor midpoint.

(b) If the funded ratio is:

(1) less than 90 percent, the municipal contribution rate for the fiscal year equals the corridor midpoint; or

(2) equal to or greater than 90 percent and the municipal contribution rate is:

(A) equal to or greater than the minimum contribution rate, the estimated municipal contribution rate is the municipal contribution rate for the fiscal year; or

(B) except as provided by Subsection (e) of this section, less than the minimum contribution rate for the corresponding fiscal year, the municipal contribution rate for the fiscal year equals the minimum contribution rate achieved in accordance with Subsection (c) of this section.

(c) For purposes of Subsection (b)(2)(B) of this section, the following adjustments shall be applied sequentially to the extent required to increase the estimated municipal contribution rate to equal the minimum contribution rate:

(1) first, adjust the actuarial value of assets equal to the current market value of assets, if making the adjustment causes the municipal contribution rate to increase;

(2) second, under a written agreement between the municipality and the board entered into not later than April 30 before the first day of the next fiscal year, reduce the assumed rate of return;

(3) third, under a written agreement between the municipality and the board entered into not later than April 30 before the first day of the next fiscal year, prospectively restore all or part of any benefit reductions or reduce increased employee contributions, in each case made after the year 2017 effective date; and

(4) fourth, accelerate the payoff year of the existing liability loss layers, including the legacy liability, by accelerating the oldest liability loss layers first, to an amortization period that is not less than 10 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability loss layer is first recognized.

(d) If the funded ratio is:

(1) equal to or greater than 100 percent:

(A) all existing liability layers, including the legacy liability, are considered fully amortized and paid;

(B) the applicable fiscal year is the payoff year for the legacy liability;  
and

(C) for each fiscal year subsequent to the fiscal year described by Paragraph (B) of this subdivision, the corridor midpoint shall be determined as provided by Section 13C(g) of this article; and

(2) greater than 100 percent in a written agreement between the municipality and the fund, the fund may reduce member contributions or increase pension benefits if, as a result of the action:

(A) the funded ratio is not less than 100 percent; and

(B) the municipal contribution rate is not more than the minimum contribution rate.

(e) Except as provided by Subsection (f) of this section, if an agreement under Subsection (d) of this section is not reached on or before April 30 before the first day of the next fiscal year, before the first day of the next fiscal year the board shall reduce member contributions and implement or increase cost-of-living adjustments, but only to the extent that the municipal contribution rate is set at or below the minimum contribution rate and the funded ratio is not less than 100 percent.

(f) If any member contribution reduction or benefit increase under Subsection (e) of this section has occurred within the previous three fiscal years, the board may not make additional adjustments to benefits, and the municipal contribution rate must be set to equal the minimum contribution rate.

Sec. 13F. MUNICIPAL CONTRIBUTION RATE WHEN ESTIMATED MUNICIPAL CONTRIBUTION RATE EQUAL TO OR GREATER THAN CORRIDOR MIDPOINT; AUTHORIZATION FOR CERTAIN ADJUSTMENTS.

(a) This section governs the determination of the municipal contribution rate in a fiscal year when the estimated municipal contribution rate is equal to or greater than the corridor midpoint.

(b) If the estimated municipal contribution rate is:

(1) less than or equal to the maximum contribution rate for the corresponding fiscal year, the estimated municipal contribution rate is the municipal contribution rate; or

(2) except as provided by Subsection (d) or (e) of this section, greater than the maximum contribution rate for the corresponding fiscal year, the municipal contribution rate equals the corridor midpoint achieved in accordance with Subsection (c) of this section.

(c) For purposes of Subsection (b)(2) of this section, the following adjustments shall be applied sequentially to the extent required to decrease the estimated municipal contribution rate to equal the corridor midpoint:

(1) first, if the payoff year of the legacy liability was accelerated under Section 13E(c) of this article, extend the payoff year of existing liability loss layers, by extending the most recent loss layers first, to a payoff year not later than 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability loss layer is first recognized; and

(2) second, adjust the actuarial value of assets to the current market value of assets, if making the adjustment causes the municipal contribution rate to decrease.

(d) If the municipal contribution rate after adjustment under Subsection (c) of this section is greater than the third quarter line rate:

(1) the municipal contribution rate equals the third quarter line rate; and

(2) to the extent necessary to comply with Subdivision (1) of this subsection, the municipality and the board shall enter into a written agreement to increase member contributions and make other benefit or plan changes not otherwise prohibited by applicable federal law or regulations.

(e) If an agreement under Subsection (d)(2) of this section is not reached on or before April 30 before the first day of the next fiscal year, before the start of the next fiscal year to which the municipal contribution rate would apply, the board, to the extent necessary to set the municipal contribution rate equal to the third quarter line rate, shall:

(1) increase member contributions and decrease cost-of-living adjustments;

(2) increase the normal retirement age; or

(3) take any combination of actions authorized under Subdivisions (1) and

(2) of this subsection.

(f) If the municipal contribution rate remains greater than the corridor midpoint in the third fiscal year after adjustments are made in accordance with Subsection (d)(2) of this section, in that fiscal year the municipal contribution rate equals the corridor midpoint achieved in accordance with Subsection (g) of this section.

(g) The municipal contribution rate must be set at the corridor midpoint under Subsection (f) of this section by:

(1) in the risk sharing valuation study for the third fiscal year described by Subsection (f) of this section, adjusting the actuarial value of assets to equal the current market value of assets, if making the adjustment causes the municipal contribution rate to decrease; and

(2) under a written agreement entered into between the municipality and the board:

(A) increasing member contributions; and

(B) making any other benefit or plan changes not otherwise prohibited by applicable federal law or regulations.

(h) If an agreement under Subsection (g)(2) of this section is not reached on or before April 30 before the first day of the next fiscal year, before the start of the next fiscal year, the board, to the extent necessary to set the municipal contribution rate equal to the corridor midpoint, shall:

(1) increase member contributions and decrease cost-of-living adjustments;

(2) increase the normal retirement age; or

(3) take any combination of actions authorized under Subdivisions (1) and

(2) of this subsection.

Sec. 13G. INTERPRETATION OF CERTAIN RISK SHARING PROVISIONS; UNILATERAL DECISIONS AND ACTIONS PROHIBITED. (a) Nothing in this article, including Section 2(p) or (p-1) of this article and any authority of the board to construe and interpret this article, to determine any fact, to take any action, or to interpret any terms used in Sections 13A through 13F of this article, may alter or change Sections 13A through 13F of this article.

(b) No unilateral decision or action by the board is binding on the municipality and no unilateral decision or action by the municipality is binding on the fund with respect to the application of Sections 13A through 13F of this article unless expressly provided by a provision of those sections. Nothing in this subsection is intended to limit the powers or authority of the board.

(c) Section 10 of this article does not apply to a benefit increase under Section 13E of this article, and Section 10 of this article is suspended while Sections 13A through 13F of this article are in effect.

Sec. 13H. STATE PENSION REVIEW BOARD; REPORT. (a) After preparing a final risk sharing valuation study under Section 13B or 13C of this article, the fund and the municipality shall jointly submit a copy of the study or studies, as appropriate, to the State Pension Review Board for a determination that the fund and municipality are in compliance with this article.

(b) Not later than the 30th day after the date an action is taken under Section 13E or 13F of this article, the fund shall submit a report to the State Pension Review Board regarding any actions taken under those sections.

(c) The State Pension Review Board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the legislative committees having principal jurisdiction over legislation governing public retirement systems if the State Pension Review Board determines the fund or the municipality is not in compliance with Sections 13A through 13G of this article.

SECTION 1.15. Section 17, Article 6243e.2(1), Revised Statutes, is amended by adding Subsections (f), (g), (h), (i), and (j) to read as follows:

(f) To carry out the provisions of Sections 13A through 13F of this article, the board and the fund must provide the municipal actuary under a confidentiality agreement the actuarial data used by the fund actuary for the fund's actuarial valuations or valuation studies and other data as agreed to between the municipality and the fund that the municipal actuary determines is reasonably necessary for the municipal actuary to perform the studies required by Sections 13A through 13F of this article. Actuarial data described by this subsection does not include information described by Subsection (a) of this section.

(g) A risk sharing valuation study prepared by either the municipal actuary or the fund actuary under Sections 13A through 13F of this article may not:

(1) include information described by Subsection (a) of this section; or

(2) provide confidential or private information regarding specific individuals or be grouped in a manner that allows confidential or private information regarding a specific individual to be discerned.

(h) The information, data, and document exchanges under Sections 13A through 13F of this article have all the protections afforded by applicable law and are expressly exempt from the disclosure requirements under Chapter 552, Government Code, except as may be agreed to by the municipality and fund in a written agreement.

(i) Subsection (h) of this section does not apply to:

(1) a proposed risk sharing valuation study prepared by the fund actuary and provided to the municipal actuary or prepared by the municipal actuary and provided to the fund actuary under Section 13B(d) or 13C(b)(2); or

(2) a final risk sharing valuation study prepared under Section 13B or 13C of this article.

(j) Before a union contract is approved by the municipality, the mayor of the municipality shall cause the municipal actuaries to deliver to the mayor a report estimating the impact of the proposed union contract on fund costs.

SECTION 1.16. Sections 13(d) and (e), Article 6243e.2(1), Revised Statutes, are repealed.

SECTION 1.17. The firefighters' relief and retirement fund established under Article 6243e.2(1), Revised Statutes, shall require the fund actuary to prepare the first actuarial experience study required under Section 13D, Article 6243e.2(1), Revised Statutes, as added by this Act, not later than September 30, 2020.

## ARTICLE 2. POLICE OFFICERS' PENSION SYSTEM

SECTION 2.01. Section 1, Article 6243g-4, Revised Statutes, is amended to read as follows:

Sec. 1. PURPOSE. The purpose of this article is to restate and amend the provisions of former law creating and governing a police officers pension system in each city in this state having a population of two [~~1.5~~] million or more, according to the most recent federal decennial census, and to reflect changes agreed to by the city and the board of trustees of the pension system under Section 27 of this article. The pension system shall continue to operate regardless of whether the city's population falls below two [~~1.5~~] million.

SECTION 2.02. Article 6243g-4, Revised Statutes, is amended by adding Section 1A to read as follows:

Sec. 1A. INTERPRETATION OF ARTICLE. This article does not and may not be interpreted to:

(1) relieve the city, the board, or the pension system of their respective obligations under Sections 9 through 9E of this article;

(2) reduce or modify the rights of the city, the board, or the pension system, including any officer or employee of the city, board, or pension system, to enforce obligations described by Subdivision (1) of this section;

(3) relieve the city, including any official or employee of the city, from:

(A) paying or directing to pay required contributions to the pension system under Section 8 or 9 of this article or carrying out the provisions of Sections 9 through 9E of this article; or

(B) reducing or modifying the rights of the board and any officer or employee of the board or pension system to enforce obligations described by Subdivision (1) of this section;

(4) relieve the pension system or board, including any officer or employee of the pension system or board, from any obligation to implement a benefit change or carry out the provisions of Sections 9 through 9E of this article; or

(5) reduce or modify the rights of the city and any officer or employee of the city to enforce an obligation described by Subdivision (4) of this section.

SECTION 2.03. Section 2, Article 6243g-4, Revised Statutes, is amended by amending Subdivisions (1), (2), (3), (4-a), (11), (13), (14-a), (17), (17-a), and (22) and adding Subdivisions (1-a), (1-b), (1-c), (4-b), (4-c), (4-d), (5-a), (5-b), (5-c), (10-a), (10-b), (10-c), (10-d), (12-a), (13-a), (13-b), (13-c), (13-d), (13-e), (13-f), (14-b), (14-c), (15-a), (15-b), (16-a), (16-b), (17-b), (17-c), (17-d), (17-e), (24), (25), (26), (27), (28), and (29) to read as follows:

(1) "Active member" means an employee of the city within [~~a person employed as a classified police officer by~~] the police department of a city subject to this article, in a classified or appointed position, except for a person in an appointed position who opts out of the plan, a person who is a part-time, seasonal, or temporary employee, or a person who elected to remain a member of a pension system described

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

(1-a) "Actuarial data" includes:

(A) the census data, assumption tables, disclosure of methods, and financial information that are routinely used by the pension system actuary for the pension system's valuation studies or an actuarial experience study under Section 9C of this article; and

(B) other data that is reasonably necessary to implement Sections 9 through 9E of this article, as agreed to by the city and the board.

(1-b) "Actuarial experience study" has the meaning assigned by Section 802.1014, Government Code.

(1-c) "Amortization period" means the time period necessary to fully pay a liability layer.

(2) "Amortization rate" means the sum of the scheduled amortization payments for a given fiscal year for the current liability layers divided by the projected pensionable payroll for that fiscal year. ~~"Average total direct pay" means an amount determined by dividing the following sum by 12:~~

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

~~[(B) the total direct pay, excluding all items of the type included in Paragraph (A) received during the same last 26 biweekly pay periods.]~~

(3) "Assumed rate of return" means the assumed market rate of return on pension system assets, which is seven percent per annum unless adjusted as provided by this article ~~"Base salary" means the monthly base pay provided for the classified position in the police department held by the member~~.

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

(A) total, complete, and permanent loss of sight in one or both eyes;

(B) total, complete, and permanent loss of the use of one or both feet at or above the ankle;

(C) total, complete, and permanent loss of the use of one or both hands at or above the wrist;

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

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

(4-b) "City" means a city subject to this article.

(4-c) "City contribution rate" means a percent of pensionable payroll that is the sum of the employer normal cost rate and the amortization rate for liability layers, except as determined otherwise under the express provisions of Sections 9D and 9E of this article.

(4-d) "Classified" means any person classified by the city as a police officer.

(5-a) "Corridor" means the range of city contribution rates that are:

(A) equal to or greater than the minimum contribution rate; and

(B) equal to or less than the maximum contribution rate.

(5-b) "Corridor margin" means five percentage points.

(5-c) "Corridor midpoint" means the projected city contribution rate specified for each fiscal year for 31 years in the initial risk sharing valuation study under Section 9B of this article, as may be adjusted under Section 9D or 9E of this article, and in each case rounded to the nearest hundredths decimal place.

(10-a) "Employer normal cost rate" means the normal cost rate minus the member contribution rate.

(10-b) "Estimated city contribution rate" means the city contribution rate estimated in a final risk sharing valuation study under Section 9A or 9B of this article, as applicable, as required by Section 9A(a)(5) of this article.

(10-c) "Fiscal year," except as provided by Section 2A of this article, means a fiscal year beginning July 1 and ending June 30.

(10-d) "Final average pay" means the pay received by a member over the last 78 biweekly pay periods ending before the earlier of:

(A) the date the member terminates employment with the police department, divided by 36; or

(B) the date the member began participation in DROP, divided by 36.

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

(12-a) "Funded ratio" means the ratio of the pension system's actuarial value of assets divided by the pension system's actuarial accrued liability.

(13) "Inactive member" means a person who has separated from service and is eligible to receive ~~[has a vested right to]~~ a service pension from the pension system but is not eligible for an immediate service pension. The term does not include a former member.

(13-a) "Legacy liability" means the unfunded actuarial accrued liability as of June 30, 2016, as reduced to reflect:

(A) changes to benefits and contributions under this article that took effect on the year 2017 effective date;

(B) the deposit of pension obligation bond proceeds on December 31, 2017, in accordance with Section 9B(j)(2) of this article;

(C) payments by the city and earnings at the assumed rate of return allocated to the legacy liability from July 1, 2016, to July 1, 2017, excluding July 1, 2017; and

(D) for each subsequent fiscal year, contributions for that year allocated to the amortization of the legacy liability and adjusted by the assumed rate of return.

(13-b) "Level percent of payroll method" means the amortization method that defines the amount of the liability layer recognized each fiscal year as a level percent of pensionable payroll until the amount of the liability layer remaining is reduced to zero.

(13-c) "Liability gain layer" means a liability layer that decreases the unfunded actuarial accrued liability.

(13-d) "Liability layer" means the legacy liability established in the initial risk sharing valuation study under Section 9B of this article and the unanticipated change as established in each subsequent risk sharing valuation study prepared under Section 9A of this article.

(13-e) "Liability loss layer" means a liability layer that increases the unfunded actuarial accrued liability. For purposes of this article, the legacy liability is a liability loss layer.

(13-f) "Maximum contribution rate" means the rate equal to the corridor midpoint plus the corridor margin.

(14-a) "Minimum contribution rate" means the rate equal to the corridor midpoint minus the corridor margin.

(14-b) "Normal cost rate" means the salary weighted average of the individual normal cost rates determined for the current active population plus an allowance for projected administrative expenses. The allowance for projected administrative expenses equals the administrative expenses divided by the pensionable payroll for the previous fiscal year, provided the administrative allowance may not exceed one percent of pensionable payroll for the current fiscal year unless agreed to by the city.

(14-c) "Normal retirement age" means:

(A) for a member hired before October 9, 2004, including a member hired before October 9, 2004, who involuntarily separated from service but was retroactively reinstated under an arbitration, civil service, or court ruling after October 9, 2004, the earlier of:

(i) [~~(A)~~] the age at which the member attains 20 years of service; or

(ii) [~~(B)~~] the age at which the member first attains both the age of at least 60 and at least 10 years of service; or

(B) except as provided by Paragraph (A) of this subdivision, for a member hired or rehired on or after October 9, 2004, the age at which the sum of the member's age in years and years of service equals at least 70.

(15-a) "Pay," unless the context requires otherwise, means wages as defined by Section 3401(a) of the code, plus any amounts that are not included in gross income by reason of Section 104(a)(1), 125, 132(f), 402(g)(2), 457, or 414(h)(2) of the code, less any pay received for overtime work, exempt time pay, strategic officer staffing program pay, motorcycle allowance, clothing allowance, or mentor pay. The definition of "pay" for purposes of this article may only be amended by written agreement of the board and the city under Section 27 of this article.

(15-b) "Payoff year" means the year a liability layer is fully amortized under the amortization period. A payoff year may not be extended or accelerated for a period that is less than one month.

(16-a) "Pension obligation bond" means a bond issued in accordance with Chapter 107, Local Government Code.

(16-b) "Pensionable payroll" means the combined salaries, in an applicable fiscal year, paid to all:

(A) active members; and

(B) if applicable, participants in any alternative retirement plan established under Section 2B of this article, including a cash balance retirement plan established under that section.

(17) "Pension system" or "system," unless the context requires otherwise, means the retirement and disability plan for employees of any police department subject to this article.

(17-a) "Police department" means one or more law enforcement agencies designated as a police department by a city.

(17-b) "Price inflation assumption" means:

(A) the most recent headline consumer price index 10-year forecast published in the Federal Reserve Bank of Philadelphia Survey of Professional Forecasters; or

(B) if the forecast described by Paragraph (A) of this subdivision is not available, another standard as determined by mutual agreement between the city and the board entered into under Section 27 of this article.

(17-c) "Projected pensionable payroll" means the estimated pensionable payroll for the fiscal year beginning 12 months after the date of the risk sharing valuation study prepared under Section 9A of this article, as applicable, at the time of calculation by:

(A) projecting the prior fiscal year's pensionable payroll projected forward two years by using the current payroll growth rate assumptions; and

(B) adjusting, if necessary, for changes in population or other known factors, provided those factors would have a material impact on the calculation, as determined by the board.

(17-d) "Retired member" means a member who has separated from service and who is eligible to receive an immediate service or disability pension under this article.

(17-e) "Salary" means pay provided for the classified position in the police department held by the employee.

(22) "Surviving spouse" means a person who was married to an active, inactive, or retired member at the time of the member's death and, in the case of a marriage or remarriage after the member's retirement, ~~[an inactive or retired member, before the member's separation from service or]~~ for a period of at least five consecutive years ~~[before the retired or inactive member's death].~~

(24) "Third quarter line rate" means the corridor midpoint plus 2.5 percentage points.

(25) "Trustee" means a member of the board.

(26) "Ultimate entry age normal" means an actuarial cost method under which a calculation is made to determine the average uniform and constant percentage rate of contributions that, if applied to the compensation of each member during the entire period of the member's anticipated covered service, would be required to meet

the cost of all benefits payable on the member's behalf based on the benefits provisions for newly hired employees. For purposes of this definition, the actuarial accrued liability for each member is the difference between the member's present value of future benefits based on the tier of benefits that apply to the member and the member's present value of future normal costs determined using the normal cost rate.

(27) "Unfunded actuarial accrued liability" means the difference between the actuarial accrued liability and the actuarial value of assets. For purposes of this definition:

(A) "actuarial accrued liability" means the portion of the actuarial present value of projected benefits attributed to past periods of member service based on the cost method used in the risk sharing valuation study prepared under Section 9A or 9B of this article, as applicable; and

(B) "actuarial value of assets" means the value of pension system investments as calculated using the asset smoothing method used in the risk sharing valuation study prepared under Section 9A or 9B of this article, as applicable.

(28) "Unanticipated change" means, with respect to the unfunded actuarial accrued liability in each subsequent risk sharing valuation study prepared under Section 9A of this article, the difference between:

(A) the remaining balance of all then-existing liability layers as of the date of the risk sharing valuation study; and

(B) the actual unfunded actuarial accrued liability as of the date of the risk sharing valuation study.

(29) "Year 2017 effective date" means the date on which S.B. No. 2190, Acts of the 85th Legislature, Regular Session, 2017, took effect.

SECTION 2.04. Article 6243g-4, Revised Statutes, is amended by adding Sections 2A, 2B, 2C, and 2D to read as follows:

Sec. 2A. FISCAL YEAR. If either the pension system or the city changes its respective fiscal year, the pension system and the city shall enter into a written agreement under Section 27 of this article to adjust the provisions of Sections 9 through 9E of this article to reflect that change for purposes of this article.

Sec. 2B. ALTERNATIVE RETIREMENT PLANS. (a) In this section, "salary-based benefit plan" means a retirement plan provided by the pension system under this article that provides member benefits calculated in accordance with a formula that is based on multiple factors, one of which is the member's salary at the time of the member's retirement.

(b) Notwithstanding any other law, including Section 9F of this article, and except as provided by Subsection (c) of this section, the board and the city may enter into a written agreement under Section 27 of this article to offer an alternative retirement plan or plans, including a cash balance retirement plan or plans, if both parties consider it appropriate.

(c) Notwithstanding any other law, including Section 9F of this article, and except as provided by Subsection (d) of this section, if, beginning with the final risk sharing valuation study prepared under Section 9A of this article on or after July 1, 2021, either the funded ratio of the pension system is less than 65 percent as determined in the final risk sharing valuation study without making any adjustments under Section 9D or 9E of this article, or the funded ratio of the pension system is less

than 65 percent as determined in a revised and restated risk sharing valuation study prepared under Section 9A(a)(7) of this article, the board and the city shall, as soon as practicable but not later than the 60th day after the date the determination is made:

(1) enter into a written agreement under Section 27 of this article to establish a cash balance retirement plan that complies with Section 2C of this article; and

(2) require each employee first hired by the city on or after the 90th day after the date the cash balance retirement plan is established to participate in the cash balance retirement plan established under this subsection instead of participating in the salary-based benefit plan, provided the employee would have otherwise been eligible to participate in the salary-based benefit plan.

(d) If the city fails to deliver the proceeds of the pension obligation bonds described by Section 9B(j)(1) of this article within the time prescribed by that subdivision, notwithstanding the funded ratio of the pension system, the board and the city may not establish a cash balance retirement plan under Subsection (c) of this section.

#### Sec. 2C. REQUIREMENTS FOR CERTAIN CASH BALANCE RETIREMENT PLANS. (a) In this section:

(1) "Cash balance plan participant" means an employee who participates in a cash balance retirement plan.

(2) "Cash balance retirement plan" means a cash balance retirement plan established by written agreement under Section 2B(b) of this article or Section 2B(c) of this article.

(3) "Interest" means the interest credited to a cash balance plan participant's notional account, which may not:

(A) exceed a percentage rate equal to the cash balance retirement plan's most recent five fiscal years' smoothed rate of return; or

(B) be less than zero percent.

(4) "Salary-based benefit plan" has the meaning assigned by Section 2B of this article.

(b) The written agreement establishing a cash balance retirement plan must:

(1) provide for the administration of the cash balance retirement plan;

(2) provide for a closed amortization period not to exceed 20 years from the date an actuarial gain or loss is realized;

(3) provide for the crediting of city and cash balance plan participant contributions to each cash balance plan participant's notional account;

(4) provide for the crediting of interest to each cash balance plan participant's notional account;

(5) include a vesting schedule;

(6) include benefit options, including options for cash balance plan participants who separate from service prior to retirement;

(7) provide for death and disability benefits;

(8) allow a cash balance plan participant who is eligible to retire under the plan to elect to:

(A) receive a monthly annuity payable for the life of the cash balance plan participant in an amount actuarially determined on the date of the cash balance plan participant's retirement based on the cash balance plan participant's accumulated notional account balance annuitized in accordance with the actuarial assumptions and actuarial methods established in the most recent actuarial experience study conducted under Section 9C of this article, except that the assumed rate of return applied may not exceed the pension system's assumed rate of return in the most recent risk sharing valuation study; or

(B) receive a single, partial lump-sum payment from the cash balance plan participant's accumulated account balance and a monthly annuity payable for life in an amount determined in accordance with Paragraph (A) of this subdivision based on the cash balance plan participant's notional account balance after receiving the partial lump-sum payment; and

(9) include any other provision determined necessary by:

(A) the board and the city; or

(B) the pension system for purposes of maintaining the tax-qualified status of the pension system under Section 401 of the code.

(c) Notwithstanding any other law, including Sections 2(1), 11, and 12 of this article, an employee who participates in a cash balance retirement plan:

(1) subject to Subsection (d) of this section, is not eligible to be an active member of and may not participate in the salary-based benefit plan; and

(2) may not accrue years of service or establish service credit in the salary-based benefit plan during the period the employee is participating in the cash balance retirement plan.

(d) A cash balance plan participant is considered an active member for purposes of Sections 9 through 9G of this article.

(e) At the time of implementation of the cash balance retirement plan, the employer normal cost rate of the cash balance retirement plan may not exceed the employer normal cost rate of the salary-based benefit plan.

Sec. 2D. CONFLICT OF LAW. To the extent of a conflict between this article and any other law, this article prevails.

SECTION 2.05. Section 3, Article 6243g-4, Revised Statutes, is amended by amending Subsection (b) and adding Subsections (i) and (j) to read as follows:

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

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

(2) three employees of the police department having membership in the pension system, elected by the active, inactive, and retired members of the pension system;

(3) two retired members who are receiving pensions from the system, who are elected by the active, inactive, and retired members of the pension system, and who are not:

(A) officers or employees of the city; or

(B) current or former employees of any other fund or pension system authorized under:

(i) Article 6243e.2(1), Revised Statutes; or

(ii) Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes)~~], elected by the active, inactive, and retired members of the pension system];~~ and

(4) the director of finance ~~[treasurer]~~ of the city or the person discharging the duties of the director of finance, or the director's designee [city treasurer].

(i) If a candidate for either an active or retired board member position does not receive a majority vote for that position, a runoff election for that position shall be held. The board shall establish a policy for general and runoff elections for purposes of this subsection.

(j) Beginning with the year 2017 effective date:

(1) the term of office for a board member in the phase-down program A or B shall be one year; and

(2) a board member who subsequently enters phase-down program A or B and has served at least one year of the member's current term shall vacate the member's seat and may run for reelection.

SECTION 2.06. Section 4, Article 6243g-4, Revised Statutes, is amended to read as follows:

Sec. 4. BOARD MEMBER LEAVE AND COMPENSATION. (a) The city shall allow active members who are trustees to promptly attend all board and committee meetings. The city shall allow trustees the time required to travel to and attend educational workshops and legislative hearings and to attend to other pension system business, including meetings regarding proposed amendments to this article, if attendance is consistent with a trustee's duty to the board [Elected members of the board who are employees of the city's police department are entitled to leave from their employer to attend to the official business of the pension system and are not required to report to the city or any other governmental entity regarding travel or the official business of the pension system, except when on city business].

(b) ~~[If the city employing an elected board member would withhold any portion of the salary of the member who is attending to official business of the pension system, the pension system may elect to adequately compensate the city for the loss of service of the member. If the board, by an affirmative vote of at least four board members, makes this election, the amounts shall be remitted from the fund to the city, and the city shall pay the board member's salary as if no loss of service had occurred.~~

~~(c)~~ The board, by an affirmative vote of at least four board members, may elect to reimburse board members who are not employees of the city for their time while attending to official business of the pension system. The amount of any reimbursement may not exceed \$750 ~~[\$350]~~ a month for each affected board member.

SECTION 2.07. Article 6243g-4, Revised Statutes, is amended by adding Sections 5A and 5B to read as follows:

Sec. 5A. QUALIFICATIONS OF CITY ACTUARY. (a) An actuary hired by the city for purposes of this article must be an actuary from a professional service firm who:

(1) is not already engaged by the pension system or any other fund or pension system authorized under Article 6243e.2(1), Revised Statutes, or Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), to provide actuarial services to the pension system or other fund or pension system, as applicable;

(2) has a minimum of 10 years of professional actuarial experience; and

(3) is a member of the American Academy of Actuaries or a fellow of the Society of Actuaries and meets the applicable requirements to issue statements of actuarial opinion.

(b) Notwithstanding Subsection (a) of this section, the city actuary must at least meet the qualifications required by the board for the pension system actuary. The city actuary is not required to have greater qualifications than those of the pension system actuary.

Sec. 5B. LIABILITY OF CERTAIN PERSONS. (a) The trustees, executive director, and employees of the pension system are fully protected from and free of liability for any action taken or suffered by them that were performed in good faith and in reliance on an actuary, accountant, counsel, or other professional service provider, or in reliance on records provided by the city.

(b) The officers and employees of the city are fully protected and free of liability for any action taken or suffered by the officer or employee, as applicable, in good faith and on reliance on an actuary, accountant, counsel, or other professional service provider.

(c) The protection from liability provided by this section is cumulative of and in addition to any other constitutional, statutory, or common law official or governmental immunity, defense, and civil or procedural protection provided to the city or pension system as a governmental entity and to a city or pension system official or employee as an official or employee of a governmental entity. Except for a waiver expressly provided by this article, this article does not grant an implied waiver of any immunity.

SECTION 2.08. Section 6, Article 6243g-4, Revised Statutes, is amended by amending Subsections (f) and (g) and adding Subsections (f-1), (i), and (j) to read as follows:

(f) The board has full discretion and authority to:

(1) administer the pension system;

(2) [~~to~~] construe and interpret this article and any summary plan descriptions or benefits procedures;

(3) subject to Section 9F of this article, correct any defect, supply any omission, and reconcile any inconsistency that appears in this article;[;] and

(4) take [~~to do~~] all other acts necessary to carry out the purpose of this article in a manner and to the extent that the board considers expedient to administer this article for the greatest benefit of all members.

(f-1) Except as provided by Section 9F of this article, all [~~all~~] decisions of the board under Subsection (f) of this section are final and binding on all affected parties.

(g) The board, if reasonably necessary in the course of performing a board function, may issue process or subpoena a witness or the production of a book, record, or other document as to any matter affecting retirement, disability, or death benefits

under any pension plan provided by the pension system. The presiding officer of the board may issue, in the name of the board, a subpoena only if a majority of the board approves. The presiding officer of the board, or the presiding officer's designee, shall administer an oath to each witness. A peace officer shall serve a subpoena issued by the board. If the person to whom a subpoena is directed fails to comply, the board may bring suit to enforce the subpoena in a district court of the county in which the person resides or in the county in which the book, record, or other document is located. If the district court finds that good cause exists for issuance of the subpoena, the court shall order compliance. The district court may modify the requirements of a subpoena that the court finds are unreasonable. Failure to obey the order of the district court is punishable as contempt.

(i) If the board or its designee determines that any person to whom a payment under this article is due is a minor or is unable to care for the person's affairs because of a physical or mental disability, and if the board or its designee, as applicable, determines the person does not have a guardian or other legal representative and that the estate of the person is insufficient to justify the expense of establishing a guardianship, or continuing a guardianship after letters of guardianship have expired, then until current letters of guardianship are filed with the pension system, the board or its designee, as applicable, may make the payment:

(1) to the spouse of the person, as trustee for the person;

(2) to an individual or entity actually providing for the needs of and caring for the person, as trustee for the person; or

(3) to a public agency or private charitable organization providing assistance or services to the aged or incapacitated that agrees to accept and manage the payment for the benefit of the person as a trustee.

(j) The board or its designee is not responsible for overseeing how a person to whom payment is made under Subsection (i) of this section uses or otherwise applies the payments. Payments made under Subsection (i) of this section constitute a complete discharge of the pension system's liability and obligation to the person on behalf of whom payment is made.

SECTION 2.09. Section 8(a), Article 6243g-4, Revised Statutes, is amended to read as follows:

(a) Subject to adjustments authorized by Section 9D or 9E of this article, each ~~Each~~ active member of the pension system shall pay into the system each month 10.5 ~~8 3/4~~ percent of the member's ~~total direct~~ pay. The payments shall be deducted by the city from the salary of each active member each payroll period and paid to the pension system. Except for the repayment of withdrawn contributions under Section 17(f) ~~or 18(e)(3)~~ of this article and rollovers permitted by Section 17(h) of this article, a person may not be required or permitted to make any payments into the pension system after the person separates from service.

SECTION 2.10. Section 9, Article 6243g-4, Revised Statutes, is amended to read as follows:

Sec. 9. CONTRIBUTIONS BY THE CITY. (a) Beginning with the year 2017 effective date, the city shall make contributions to the pension system for deposit into the fund as provided by this section and Section 9A, 9B, 9D, or 9E of this article, as applicable. The city shall contribute:

(1) beginning with the year 2017 effective date and ending with the fiscal year ending June 30, 2018, an amount equal to the city contribution rate, as determined in the initial risk sharing valuation study conducted under Section 9B of this article and adjusted under Section 9D or 9E of this article, as applicable, multiplied by the pensionable payroll for the fiscal year; and

(2) for each fiscal year after the fiscal year ending June 30, 2018, an amount equal to the city contribution rate, as determined in a subsequent risk sharing valuation study conducted under Section 9A of this article and adjusted under Section 9D or 9E of this article, as applicable, multiplied by the pensionable payroll for the applicable fiscal year.

(b) Except by written agreement between the city and the board under Section 27 of this article providing for an earlier contribution date, at least biweekly, the city shall make the contributions required by Subsection (a) of this section by depositing with the pension system an amount equal to the city contribution rate multiplied by the pensionable payroll for the biweekly period.

(c) With respect to each fiscal year:

(1) the first contribution by the city under this section for the fiscal year shall be made not later than the date payment is made to employees for their first full biweekly pay period beginning on or after the first day of the fiscal year; and

(2) the final contribution by the city under this section for the fiscal year shall be made not later than the date payment is made to employees for the final biweekly pay period of the fiscal year.

(d) In addition to the amounts required under this section, the city may at any time contribute additional amounts to the pension system for deposit in the pension fund by entering into a written agreement with the board in accordance with Section 27 of this article ~~[The city shall make substantially equal contributions to the fund as soon as administratively feasible after each payroll period. For each fiscal year ending after June 30, 2005, the city's minimum contribution shall be the greater of 16 percent of the members' total direct pay or the level percentage of salary payment required to amortize the unfunded actuarial liability over a constant period of 30 years computed on the basis of an acceptable actuarial reserve funding method approved by the board. However, for the fiscal year ending June 30, 2002, the city's contribution shall be \$32,645,000, for the fiscal year ending June 30, 2003, the city's contribution shall be \$34,645,000, for the fiscal year ending June 30, 2004, the city's contribution shall be \$36,645,000, and for the fiscal year ending June 30, 2005, the city's contribution shall be 16 percent of the members' total direct pay].~~

(e) ~~(e)~~ The governing body of a city to which this article applies by ordinance or resolution may provide that the city pick up active member contributions required by Section 8 of this article so that the contributions of all active members of the pension system qualify as picked-up contributions under Section 414(h)(2) of the code. If the governing body of a city adopts an ordinance or resolution under this section, the city, the board, and any other necessary party shall implement the action as soon as practicable. Contributions picked up as provided by this subsection shall be included in the determination of an active member's ~~[total direct]~~ pay, deposited to the individual account of the active member on whose behalf they are made, and treated

for all purposes, other than federal tax purposes, in the same manner and with like effect as if they had been deducted from the salary of, and made by, the active member.

(f) Only amounts paid by the city to the pension system shall be credited against any amortization schedule of payments due to the pension system under this article.

(g) Subsection (f) of this section does not affect changes to an amortization schedule of a liability layer under Section 9A(a)(6)(F), 9B(i), or 9D(c)(4) of this article.

(h) Notwithstanding any other law and except for the pension obligation bond assumed under Section 9B(d)(2) of this article, the city may not issue a pension obligation bond to fund the city contribution rate under this section.

SECTION 2.11. Article 6243g-4, Revised Statutes, is amended by adding Sections 9A, 9B, 9C, 9D, 9E, 9F, and 9G to read as follows:

Sec. 9A. RISK SHARING VALUATION STUDIES. (a) The pension system and the city shall separately cause their respective actuaries to prepare a risk sharing valuation study in accordance with this section and actuarial standards of practice. A risk sharing valuation study must:

(1) be dated as of the first day of the fiscal year in which the study is required to be prepared;

(2) be included in the pension system's standard valuation study prepared annually for the pension system;

(3) calculate the unfunded actuarial accrued liability of the pension system;

(4) be based on actuarial data provided by the pension system actuary or, if actuarial data is not provided, on estimates of actuarial data;

(5) estimate the city contribution rate, taking into account any adjustments required under Section 9D or 9E of this article for all applicable prior fiscal years;

(6) subject to Subsection (g) of this section, be based on the following assumptions and methods that are consistent with actuarial standards of practice:

(A) an ultimate entry age normal actuarial method;

(B) for purposes of determining the actuarial value of assets:

(i) except as provided by Subparagraph (ii) of this paragraph and Section 9D(c)(1) or 9E(c)(2) of this article, an asset smoothing method recognizing actuarial losses and gains over a five-year period applied prospectively beginning on the year 2017 effective date; and

(ii) for the initial risk sharing valuation study prepared under Section 9B of this article, a marked-to-market method applied as of June 30, 2016;

(C) closed layered amortization of liability layers to ensure that the amortization period for each layer begins 12 months after the date of the risk sharing valuation study in which the liability layer is first recognized;

(D) each liability layer is assigned an amortization period;

(E) each liability loss layer amortized over a period of 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability loss layer is first recognized, except that the legacy liability must be amortized from July 1, 2016, for a 30-year period beginning July 1, 2017;

(F) the amortization period for each liability gain layer being:

(i) equal to the remaining amortization period on the largest remaining liability loss layer and the two layers must be treated as one layer such that if the payoff year of the liability loss layer is accelerated or extended, the payoff year of the liability gain layer is also accelerated or extended; or

(ii) if there is no liability loss layer, a period of 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability gain layer is first recognized;

(G) liability layers, including the legacy liability, funded according to the level percent of payroll method;

(H) the assumed rate of return, subject to adjustment under Section 9D(c)(2) of this article or, if Section 9B(g) of this article applies, adjustment in accordance with a written agreement entered into under Section 27 of this article, except the assumed rate of return may not exceed seven percent per annum;

(I) the price inflation assumption as of the most recent actuarial experience study, which may be reset by the board by plus or minus 50 basis points based on that actuarial experience study;

(J) projected salary increases and payroll growth rate set in consultation with the city's finance director; and

(K) payroll for purposes of determining the corridor midpoint and city contribution rate must be projected using the annual payroll growth rate assumption, which for purposes of preparing any amortization schedule may not exceed three percent; and

(7) be revised and restated, if appropriate, not later than:

(A) the date required by a written agreement entered into between the city and the board; or

(B) the 30th day after the date required action is taken by the board under Section 9D or 9E of this article to reflect any changes required by either section.

(b) As soon as practicable after the end of a fiscal year, the pension system actuary at the direction of the pension system and the city actuary at the direction of the city shall separately prepare a proposed risk sharing valuation study based on the fiscal year that just ended.

(c) Not later than September 30 following the end of the fiscal year, the pension system shall provide to the city actuary, under a confidentiality agreement with the board in which the city actuary agrees to comply with the confidentiality provisions of Section 29 of this article, the actuarial data described by Subsection (a)(4) of this section.

(d) Not later than the 150th day after the last day of the fiscal year:

(1) the pension system actuary, at the direction of the pension system, shall provide the proposed risk sharing valuation study prepared by the pension system actuary under Subsection (b) of this section to the city actuary; and

(2) the city actuary, at the direction of the city, shall provide the proposed risk sharing valuation study prepared by the city actuary under Subsection (b) of this section to the pension system actuary.

(e) Each actuary described by Subsection (d) of this section may provide copies of the proposed risk sharing valuation studies to the city or to the pension system, as appropriate.

(f) If, after exchanging proposed risk sharing valuation studies under Subsection (d) of this section, it is found that the difference between the estimated city contribution rate recommended in the proposed risk sharing valuation study prepared by the pension system actuary and the estimated city contribution rate recommended in the proposed risk sharing valuation study prepared by the city actuary for the corresponding fiscal year is:

(1) less than or equal to two percentage points, the estimated city contribution rate recommended by the pension system actuary will be the estimated city contribution rate for purposes of Subsection (a)(5) of this section, and the proposed risk sharing valuation study prepared for the pension system is considered to be the final risk sharing valuation study for the fiscal year for the purposes of this article; or

(2) greater than two percentage points, the city actuary and the pension system actuary shall have 20 business days to reconcile the difference, provided that without the mutual agreement of both actuaries, the difference in the estimated city contribution rate recommended by the city actuary and the estimated city contribution rate recommended by the pension system actuary may not be further increased and:

(A) if, as a result of reconciliation efforts under this subdivision, the difference is reduced to less than or equal to two percentage points:

(i) the estimated city contribution rate proposed under the reconciliation by the pension system actuary will be the estimated city contribution rate for purposes of Subsection (a)(5) of this section; and

(ii) the pension system's risk sharing valuation study is considered to be the final risk sharing valuation study for the fiscal year for the purposes of this article; or

(B) if, after 20 business days, the pension system actuary and the city actuary are not able to reach a reconciliation that reduces the difference to an amount less than or equal to two percentage points:

(i) the city actuary at the direction of the city and the pension system actuary at the direction of the pension system each shall deliver to the finance director of the city and the executive director of the pension system a final risk sharing valuation study with any agreed-to changes, marked as the final risk sharing valuation study for each actuary; and

(ii) not later than the 90th day before the first day of the next fiscal year, the finance director and the executive director shall execute a joint addendum to the final risk sharing valuation study received by them under Subparagraph (i) of this paragraph that is a part of the final risk sharing valuation study for the fiscal year for all purposes and reflects the arithmetic average of the estimated city contribution rates for the fiscal year stated by the city actuary and the pension system actuary in the final risk sharing valuation study for purposes of Subsection (a)(5) of this section, and for reporting purposes the pension system may treat the pension system actuary's risk sharing valuation study with the addendum as the final risk sharing valuation study.

(g) The assumptions and methods used and the types of actuarial data and financial information used to prepare the initial risk sharing valuation study under Section 9B of this article shall be used to prepare each subsequent risk sharing valuation study under this section, unless changed based on the actuarial experience study conducted under Section 9C of this article.

(h) The actuarial data provided under Subsection (a)(4) of this section may not include the identifying information of individual members.

Sec. 9B. INITIAL RISK SHARING VALUATION STUDIES; CORRIDOR MIDPOINT. (a) The pension system and the city shall separately cause their respective actuaries to prepare an initial risk sharing valuation study that is dated as of July 1, 2016, in accordance with this section. An initial risk sharing valuation study must:

(1) except as otherwise provided by this section, be prepared in accordance with Section 9A of this article and, for purposes of Section 9A(a)(4) of this article, be based on actuarial data as of June 30, 2016, or, if actuarial data is not provided, on estimates of actuarial data; and

(2) project the corridor midpoint for 31 fiscal years beginning with the fiscal year beginning July 1, 2017.

(b) If the initial risk sharing valuation study has not been prepared consistent with this section before the year 2017 effective date, as soon as practicable after the year 2017 effective date:

(1) the pension system shall provide to the city actuary, under a confidentiality agreement, the necessary actuarial data used by the pension system actuary to prepare the proposed initial risk sharing valuation study; and

(2) not later than the 30th day after the date the city's actuary receives the actuarial data:

(A) the city actuary, at the direction of the city, shall provide a proposed initial risk sharing valuation study to the pension system actuary; and

(B) the pension system actuary, at the direction of the pension system, shall provide a proposed initial risk sharing valuation study to the city actuary.

(c) If, after exchanging proposed initial risk sharing valuation studies under Subsection (b)(2) of this section, it is determined that the difference between the estimated city contribution rate for any fiscal year recommended in the proposed initial risk sharing valuation study prepared by the pension system actuary and in the proposed initial risk sharing valuation study prepared by the city actuary is:

(1) less than or equal to two percentage points, the estimated city contribution rate for that fiscal year recommended by the pension system actuary will be the estimated city contribution rate for purposes of Section 9A(a)(5) of this article; or

(2) greater than two percentage points, the city actuary and the pension system actuary shall have 20 business days to reconcile the difference and:

(A) if, as a result of reconciliation efforts under this subdivision, the difference in any fiscal year is reduced to less than or equal to two percentage points, the estimated city contribution rate recommended by the pension system actuary for that fiscal year will be the estimated city contribution rate for purposes of Section 9A(a)(5) of this article; or

(B) if, after 20 business days, the city actuary and the pension system actuary are not able to reach a reconciliation that reduces the difference to an amount less than or equal to two percentage points for any fiscal year:

(i) the city actuary at the direction of the city and the pension system actuary at the direction of the pension system each shall deliver to the finance director of the city and the executive director of the pension system a final initial risk sharing valuation study with any agreed-to changes, marked as the final initial risk sharing valuation study for each actuary; and

(ii) the finance director and the executive director shall execute a joint addendum to the final initial risk sharing valuation study that is a part of each final initial risk sharing valuation study for all purposes and that reflects the arithmetic average of the estimated city contribution rate for each fiscal year in which the difference was greater than two percentage points for purposes of Section 9A(a)(5) of this article, and for reporting purposes the pension system may treat the pension system actuary's initial risk sharing valuation study with the addendum as the final initial risk sharing valuation study.

(d) In preparing the initial risk sharing valuation study, the city actuary and pension system actuary shall:

(1) adjust the actuarial value of assets to be equal to the market value of assets as of July 1, 2016;

(2) assume the issuance of planned pension obligation bonds by December 31, 2017, in accordance with Subsection (j)(2) of this section; and

(3) assume benefit and contribution changes contemplated by this article as of the year 2017 effective date.

(e) If the city actuary does not prepare an initial risk sharing valuation study for purposes of this section, the pension system actuary's initial risk sharing valuation study will be used as the final risk sharing valuation study for purposes of this article unless the city did not prepare a proposed initial risk sharing valuation study because the pension system actuary did not provide the necessary actuarial data in a timely manner. If the city did not prepare a proposed initial risk sharing valuation study because the pension system actuary did not provide the necessary actuarial data in a timely manner, the city actuary shall have 60 days to prepare the proposed initial risk sharing valuation study on receipt of the necessary information.

(f) If the pension system actuary does not prepare a proposed initial risk sharing valuation study for purposes of this section, the proposed initial risk sharing valuation study prepared by the city actuary will be the final risk sharing valuation study for purposes of this article.

(g) The city and the board may agree on a written transition plan for resetting the corridor midpoint:

(1) if at any time the funded ratio is equal to or greater than 100 percent; or

(2) for any fiscal year after the payoff year of the legacy liability.

(h) If the city and the board have not entered into an agreement described by Subsection (g) of this section in a given fiscal year, the corridor midpoint will be the corridor midpoint determined for the 31st fiscal year in the initial risk sharing valuation study prepared in accordance with this section.

(i) If the city makes a contribution to the pension system of at least \$5 million more than the amount that would be required by Section 9(a) of this article, a liability gain layer with the same remaining amortization period as the legacy liability is created and the corridor midpoint shall be decreased by the amortized amount in each fiscal year covered by the liability gain layer produced divided by the projected pensionable payroll.

(j) Notwithstanding any other provision of this article, including Section 9F of this article:

(1) if the city fails to deliver the proceeds of pension obligation bonds totaling \$750 million on or before March 31, 2018, the board shall:

(A) except as provided by Paragraph (B) of this subdivision, immediately rescind, prospectively, any or all benefit changes made effective under S.B. No. 2190, Acts of the 85th Legislature, Regular Session, 2017, as of the year 2017 effective date; or

(B) reestablish the deadline for the delivery of pension obligation bond proceeds, which may not be later than May 31, 2018, reserving the right to rescind the benefit changes authorized by this subdivision if the bond proceeds are not delivered by the reestablished deadline; and

(2) subject to Subsection (k) of this section, if the board rescinds benefit changes under Subdivision (1) of this subsection or pension obligation bond proceeds are not delivered on or before December 31, 2017, the initial risk sharing valuation study shall be prepared again and restated without assuming the delivery of the pension obligation bond proceeds, the later delivery of pension obligation bond proceeds, or the rescinded benefit changes, as applicable, and the resulting city contribution rate will become effective in the fiscal year following the completion of the restated initial risk sharing valuation study.

(k) The restated initial risk sharing valuation study required under Subsection (j)(2) of this section must be completed at least 30 days before the start of the fiscal year:

(1) ending June 30, 2019, if the board does not reestablish the deadline under Subsection (j)(1) of this section; or

(2) immediately following the reestablished deadline, if the board reestablishes the deadline under Subsection (j)(1) of this section and the city fails to deliver the pension obligation bond proceeds described by Subsection (j)(1) of this section by the reestablished deadline.

Sec. 9C. ACTUARIAL EXPERIENCE STUDIES. (a) At least once every four years, the pension system actuary at the direction of the pension system shall conduct an actuarial experience study in accordance with actuarial standards of practice. The actuarial experience study required by this subsection must be completed not later than September 30 of the year in which the study is required to be conducted.

(b) Except as otherwise expressly provided by Sections 9A(a)(6)(A)-(I) of this article, actuarial assumptions and methods used in the preparation of a risk sharing valuation study, other than the initial risk sharing valuation study, shall be based on the results of the most recent actuarial experience study.

(c) Not later than the 180th day before the date the board may consider adopting any assumptions and methods for purposes of Section 9A of this article, the pension system shall provide the city actuary with a substantially final draft of the pension system's actuarial experience study, including:

(1) all assumptions and methods recommended by the pension system's actuary; and

(2) summaries of the reconciled actuarial data used in creation of the actuarial experience study.

(d) Not later than the 60th day after the date the city receives the final draft of the pension system's actuarial experience study under Subsection (c) of this section, the city actuary and pension system actuary shall confer and cooperate on reconciling and producing a final actuarial experience study. During the period prescribed by this subsection, the pension system actuary may modify the recommended assumptions in the draft actuarial experience study to reflect any changes to assumptions and methods to which the pension system actuary and the city actuary agree.

(e) At the city actuary's written request, the pension system shall provide additional actuarial data used by the pension system actuary to prepare the draft actuarial experience study, provided that confidential data may only be provided subject to a confidentiality agreement in which the city actuary agrees to comply with the confidentiality provisions of Section 29 of this article.

(f) The city actuary at the direction of the city shall provide in writing to the pension system actuary and the pension system:

(1) any assumptions and methods recommended by the city actuary that differ from the assumptions and methods recommended by the pension system actuary; and

(2) the city actuary's rationale for each method or assumption the actuary recommends and determines to be consistent with standards adopted by the Actuarial Standards Board.

(g) Not later than the 30th day after the date the pension system actuary receives the city actuary's written recommended assumptions and methods and rationale under Subsection (f) of this section, the pension system shall provide a written response to the city identifying any assumption or method recommended by the city actuary that the pension system does not accept. If any assumption or method is not accepted, the pension system shall recommend to the city the names of three independent actuaries for purposes of this section.

(h) An actuary may only be recommended, selected, or engaged by the pension system as an independent actuary under this section if the person:

(1) is not already engaged by the city, the pension system, or any other fund or pension system authorized under Article 6243e.2(1), Revised Statutes, or Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), to provide actuarial services to the city, the pension system, or another fund or pension system referenced in this subdivision;

(2) is a member of the American Academy of Actuaries; and

(3) has at least five years of experience as an actuary working with one or more public retirement systems with assets in excess of \$1 billion.

(i) Not later than the 20th day after the date the city receives the list of three independent actuaries under Subsection (g) of this section, the city shall identify and the pension system shall hire one of the listed independent actuaries on terms acceptable to the city and the pension system to perform a scope of work acceptable to the city and the pension system. The city and the pension system each shall pay 50 percent of the cost of the independent actuary engaged under this subsection. The city shall be provided the opportunity to participate in any communications between the independent actuary and the pension system concerning the engagement, engagement terms, or performance of the terms of the engagement.

(j) The independent actuary engaged under Subsection (i) of this section shall receive on request from the city or the pension system:

(1) the pension system's draft actuarial experience study, including all assumptions and methods recommended by the pension system actuary;

(2) summaries of the reconciled actuarial data used to prepare the draft actuarial experience study;

(3) the city actuary's specific recommended assumptions and methods together with the city actuary's written rationale for each recommendation;

(4) the pension system actuary's written rationale for its recommendations;

and

(5) if requested by the independent actuary and subject to a confidentiality agreement in which the independent actuary agrees to comply with the confidentiality provisions of this article, additional confidential actuarial data.

(k) Not later than the 30th day after the date the independent actuary receives all the requested information under Subsection (j) of this section, the independent actuary shall advise the pension system and the city whether it agrees with either the assumption or method recommended by the city actuary or the corresponding method or assumption recommended by the pension system actuary, together with the independent actuary's rationale for making the determination. During the period prescribed by this subsection, the independent actuary may discuss recommendations in simultaneous consultation with the pension system actuary and the city actuary.

(l) The pension system and the city may not seek any information from any prospective independent actuary about possible outcomes of the independent actuary's review.

(m) If an independent actuary has questions or concerns regarding an engagement entered into under this section, the independent actuary shall simultaneously consult with both the city actuary and the pension system actuary regarding the questions or concerns. This subsection does not limit the pension system's authorization to take appropriate steps to complete the engagement of the independent actuary on terms acceptable to both the pension system and the city or to enter into a confidentiality agreement with the independent actuary, if needed.

(n) If the board does not adopt an assumption or method recommended by the city actuary to which the independent actuary agrees, or recommended by the pension system actuary, the city actuary is authorized to use that recommended assumption or method in connection with preparation of a subsequent risk sharing valuation study under Section 9A of this article until the next actuarial experience study is conducted.

Sec. 9D. CITY CONTRIBUTION RATE WHEN ESTIMATED CITY CONTRIBUTION RATE LOWER THAN CORRIDOR MIDPOINT; AUTHORIZATION FOR CERTAIN ADJUSTMENTS. (a) This section governs the determination of the city contribution rate applicable in a fiscal year if the estimated city contribution rate is lower than the corridor midpoint.

(b) If the funded ratio is:

(1) less than 90 percent, the city contribution rate for the fiscal year equals the corridor midpoint; or

(2) equal to or greater than 90 percent and the city contribution rate is:

(A) equal to or greater than the minimum contribution rate, the estimated city contribution rate is the city contribution rate for the fiscal year; or

(B) except as provided by Subsection (e) of this section, less than the minimum contribution rate for the corresponding fiscal year, the city contribution rate for the fiscal year equals the minimum contribution rate achieved in accordance with Subsection (c) of this section.

(c) For purposes of Subsection (b)(2)(B) of this section, the following adjustments shall be applied sequentially to the extent required to increase the estimated city contribution rate to equal the minimum contribution rate:

(1) first, adjust the actuarial value of assets equal to the current market value of assets, if making the adjustment causes the city contribution rate to increase;

(2) second, under a written agreement between the city and the board entered into under Section 27 of this article not later than April 30 before the first day of the next fiscal year, reduce the assumed rate of return;

(3) third, under a written agreement between the city and the board entered into under Section 27 of this article not later than April 30 before the first day of the next fiscal year, prospectively restore all or part of any benefit reductions or reduce increased employee contributions, in each case made after the year 2017 effective date; and

(4) fourth, accelerate the payoff year of the existing liability loss layers, including the legacy liability, by accelerating the oldest liability loss layers first, to an amortization period that is not less than 10 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability loss layer is first recognized.

(d) If the funded ratio is:

(1) equal to or greater than 100 percent:

(A) all existing liability layers, including the legacy liability, are considered fully amortized and paid;

(B) the applicable fiscal year is the payoff year for the legacy liability; and

(C) for each fiscal year subsequent to the fiscal year described by Paragraph (B) of this subdivision, the corridor midpoint shall be determined as provided by Section 9B(g) of this article; and

(2) greater than 100 percent in a written agreement between the city and the pension system under Section 27 of this article, the pension system may reduce member contributions or increase pension benefits if, as a result of the action:

(A) the funded ratio is not less than 100 percent; and

(B) the city contribution rate is not more than the minimum contribution rate.

(e) Except as provided by Subsection (f) of this section, if an agreement under Subsection (d) of this section is not reached on or before April 30 before the first day of the next fiscal year, before the first day of the next fiscal year the board shall reduce member contributions and implement or increase cost of living adjustments, but only to the extent that the city contribution rate is set at or below the minimum contribution rate and the funded ratio is not less than 100 percent.

(f) If any member contribution reduction or benefit increase under Subsection (e) of this section has occurred within the previous three fiscal years, the board may not make additional adjustments to benefits, and the city contribution rate must be set to equal the minimum contribution rate.

Sec. 9E. CITY CONTRIBUTION RATE WHEN ESTIMATED CITY CONTRIBUTION RATE EQUAL TO OR GREATER THAN CORRIDOR MIDPOINT; AUTHORIZATION FOR CERTAIN ADJUSTMENTS. (a) This section governs the determination of the city contribution rate in a fiscal year when the estimated city contribution rate is equal to or greater than the corridor midpoint.

(b) If the estimated city contribution rate is:

(1) less than or equal to the maximum contribution rate for the corresponding fiscal year, the estimated city contribution rate is the city contribution rate; or

(2) except as provided by Subsection (d) or (e) of this section, greater than the maximum contribution rate for the corresponding fiscal year, the city contribution rate equals the corridor midpoint achieved in accordance with Subsection (c) of this section.

(c) For purposes of Subsection (b)(2) of this section, the following adjustments shall be applied sequentially to the extent required to decrease the estimated city contribution rate to equal the corridor midpoint:

(1) first, if the payoff year of the legacy liability was accelerated under Section 9D(c) of this article, extend the payoff year of existing liability loss layers, by extending the most recent loss layers first, to a payoff year not later than 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability loss layer is first recognized; and

(2) second, adjust the actuarial value of assets to the current market value of assets, if making the adjustment causes the city contribution rate to decrease.

(d) If the city contribution rate after adjustment under Subsection (c) of this section is greater than the third quarter line rate:

(1) the city contribution rate equals the third quarter line rate; and

(2) to the extent necessary to comply with Subdivision (1) of this subsection, the city and the board shall enter into a written agreement under Section 27 of this article to increase member contributions and make other benefits or plan changes not otherwise prohibited by applicable federal law or regulations.

(e) If an agreement under Subsection (d)(2) of this section is not reached on or before April 30 before the first day of the next fiscal year, before the start of the next fiscal year to which the city contribution rate would apply, the board, to the extent necessary to set the city contribution rate equal to the third quarter line rate, shall:

- (1) increase member contributions and decrease cost-of-living adjustments;
- (2) increase the normal retirement age; or
- (3) take any combination of the actions authorized under Subdivisions (1)

and (2) of this subsection.

(f) If the city contribution rate remains greater than the corridor midpoint in the third fiscal year after adjustments are made in accordance with an agreement under Subsection (d)(2) of this section, in that fiscal year the city contribution rate equals the corridor midpoint achieved in accordance with Subsection (g) of this section.

(g) The city contribution rate must be set at the corridor midpoint under Subsection (f) of this section by:

(1) in the risk sharing valuation study for the third fiscal year described by Subsection (f) of this section, adjusting the actuarial value of assets to equal the current market value of assets, if making the adjustment causes the city contribution rate to decrease; and

(2) under a written agreement entered into between the city and the board under Section 27 of this article:

(A) increasing member contributions; and

(B) making any other benefits or plan changes not otherwise prohibited by applicable federal law or regulations.

(h) If an agreement under Subsection (g)(2) of this section is not reached on or before April 30 before the first day of the next fiscal year, before the start of the next fiscal year, the board, to the extent necessary to set the city contribution rate equal to the corridor midpoint, shall:

(1) increase member contributions and decrease cost-of-living adjustments;

(2) increase the normal retirement age; or

(3) take any combination of the actions authorized under Subdivisions (1)

and (2) of this subsection.

#### Sec. 9F. UNILATERAL DECISIONS AND ACTIONS PROHIBITED.

(a) Notwithstanding Section 6(f) or 5B of this article, the board may not change, terminate, or modify Sections 9 through 9E of this article.

(b) No unilateral decision or action by the board is binding on the city and no unilateral decision or action by the city is binding on the pension system with respect to the application of Sections 9 through 9E of this article unless expressly provided by a provision of those sections. Nothing in this subsection is intended to limit the powers or authority of the board.

Sec. 9G. STATE PENSION REVIEW BOARD; REPORT. (a) After preparing a final risk sharing valuation study under Section 9A or 9B of this article, the pension system and the city shall jointly submit a copy of the study or studies, as appropriate, to the State Pension Review Board for a determination that the pension system and city are in compliance with this article.

(b) Not later than the 30th day after the date an action is taken under Section 9D or 9E of this article, the pension system shall submit a report to the State Pension Review Board regarding any actions taken under those sections.

(c) The State Pension Review Board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the legislative committees having principal jurisdiction over legislation governing public retirement systems if the State Pension Review Board determines the pension system or the city is not in compliance with Sections 9 through 9F of this article.

SECTION 2.12. Article 6243g-4, Revised Statutes, is amended by adding Section 10A to read as follows:

Sec. 10A. REPORT ON INVESTMENTS BY INDEPENDENT INVESTMENT CONSULTANT. (a) At least once every three years, the board shall hire an independent investment consultant, including an independent investment consulting firm, to conduct a review of pension system investments and submit a report to the board and the city concerning that review. The independent investment consultant shall review and report on at least the following:

(1) the pension system's compliance with its investment policy statement, ethics policies, including policies concerning the acceptance of gifts, and policies concerning insider trading;

(2) the pension system's asset allocation, including a review and discussion of the various risks, objectives, and expected future cash flows;

(3) the pension system's portfolio structure, including the system's need for liquidity, cash income, real return, and inflation protection and the active, passive, or index approaches for different portions of the portfolio;

(4) investment manager performance reviews and an evaluation of the processes used to retain and evaluate managers;

(5) benchmarks used for each asset class and individual manager;

(6) evaluation of fees and trading costs;

(7) evaluation of any leverage, foreign exchange, or other hedging transaction; and

(8) an evaluation of investment-related disclosures in the pension system's annual reports.

(b) When the board retains an independent investment consultant under this section, the pension system may require the consultant to agree in writing to maintain the confidentiality of:

(1) information provided to the consultant that is reasonably necessary to conduct a review under this section; and

(2) any nonpublic information provided for the pension system for the review.

(c) The costs for the investment report required by this section must be paid from the fund.

SECTION 2.13. Sections 11(a) and (c), Article 6243g-4, Revised Statutes, are amended to read as follows:

(a) A member who returns to service after an interruption in service is eligible for ~~entitled to~~ credit for the previous service to the extent provided by Section 17 or 19 of this article.

(c) A member may not have any service credited for unused sick leave, vacation pay, ~~or~~ accumulated overtime, or equivalent types of pay until the date the member retires, at which time the member may apply some or all of the service to satisfy the requirements for retirement, although the member otherwise could not meet the service requirement without the credit.

SECTION 2.14. Section 12, Article 6243g-4, Revised Statutes, is amended by amending Subsections (a), (b), (c), (d), (e), (h), and (i) and adding Subsections (b-1), (b-2), (b-3), (c-1), (c-2), (j), (k), (l), and (m) to read as follows:

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

(b) Except as otherwise provided by this section, including Subsection (b-3) of this section, the monthly service pension of a member who:

(1) is hired before October 9, 2004, including a member hired before October 9, 2004, who involuntarily separated from service but has been retroactively reinstated under arbitration, civil service, or a court ruling, [that becomes due after May 1, 2001,] is equal to the sum of:

(A) 2.75 percent of the member's final average [total direct] pay multiplied by the member's years or partial years of service [or, if the member retired before November 24, 1998, 2.75 percent of the member's base salary,] for ~~[each of]~~ the member's first 20 years of service; and

(B) [, plus an additional] two percent of the member's final average [total direct] pay multiplied by the member's years or partial years of service for the member's years of service in excess of the 20 years of service described by Paragraph (A) of this subdivision; or

(2) except as provided by Subdivision (1) of this subsection and subject to Subsection (b-3) of this section, is hired or rehired as an active member on or after October 9, 2004, is equal to the sum of:

(A) 2.25 percent of the member's final average pay multiplied by the member's years or partial years of service for the member's first 20 years of service; and

(B) two percent of the member's final average pay multiplied by the member's years or partial years of service in excess of 20 years of service described by Paragraph (A) of this subdivision [for each of the member's subsequent years of service, computed to the nearest one twelfth of a year].

(b-1) A member who [separates from service after November 23, 1998, including a member who was a DROP participant, and] begins to receive a monthly service pension under Subsection (b)(1) of this section shall also receive a one-time lump-sum payment of \$5,000 at the same time the first monthly pension payment is made. The lump-sum payment under this subsection is not available to a member who has previously received a \$5,000 payment under this section or Section 16 of this article. A member described by Subsection (b)(2) of this section may not receive the lump-sum payment described by this subsection.

(b-2) For purposes of Subsections (b) and (b-1) of this section, partial years shall be computed to the nearest one-twelfth of a year.

(b) A member's monthly service pension determined under Subsection (b)(2) of this section may not exceed 80 percent of the member's final average pay.

(c) Subject to Subsection (c-2) of this section, beginning with the fiscal year ending June 30, 2021, the [The] pension payable to a [each] retired member or survivor who is 55 years of age or older as of April 1 of the applicable fiscal year, a member or survivor who received benefits or survivor benefits before June 8, 1995, or a survivor of an active member who dies from a cause connected with the performance of the member's duties [of the pension system] shall be adjusted annually, effective April 1 of each year, upward at a rate equal to the most recent five fiscal years' smoothed return, as determined by the pension system actuary, minus 500 basis points [two-thirds of any percentage increase in the Consumer Price Index for All Urban Consumers for the preceding year. The amount of the annual adjustment may not be less than three percent or more than eight percent of the pension being paid immediately before the adjustment, notwithstanding a greater or lesser increase in the consumer price index].

(c-1) Subject to Subsection (c-2) of this section, for the pension system's fiscal years ending June 30, 2018, June 30, 2019, and June 30, 2020, the pension payable to each retired member or survivor who is 70 years of age or older shall be adjusted annually, effective April 1 of each year, upward at a rate equal to the most recent five fiscal years' smoothed return, as determined by the pension system actuary, minus 500 basis points.

(c-2) The percentage rate prescribed by Subsections (c) and (c-1) of this section may not be less than zero percent or more than four percent, irrespective of the return rate of the pension system's investment portfolio.

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

(e) At the end of each calendar year beginning after 1998, and subject to the conditions provided by this subsection, the pension system shall make a 13th benefit payment to each member or survivor who is hired or rehired before October 9, 2004, including a member hired or rehired before October 9, 2004, who was reinstated under arbitration, civil service, or a court ruling after that date, and [person] who is

receiving a service pension. The amount of the 13th payment shall be the same as the last monthly payment received by the retiree or survivor before issuance of the payment, except the payment received by any person who has been in pay status for less than 12 months shall be for a prorated amount determined by dividing the amount of the last payment received by 12 and multiplying this amount by the number of months the person has been in pay status. The 13th payment may be made only for those calendar years in which the pension system's funded ratio is 120 percent or greater[:

~~[(1) the assets held by the fund will equal or exceed its liabilities after the 13th payment is made;~~

~~[(2) the rate of return on the fund's assets exceeded 9.25 percent for the last fiscal year ending before the payment; and~~

~~[(3) the payment will not cause an increase in the contribution the city would have been required to make if the 13th payment had not been made].~~

(h) Final average [~~Average total direct~~] pay for a member who retires after participating in a phase-down program in which the member receives a periodic payment that is generated from the member's accumulated sick time, vacation time, and overtime balances shall be based on the final average pay the member received on the earlier of the date:

(1) immediately preceding the date the member began phase-down participation; or

(2) if the member began DROP participation on or after the year 2017 effective date, the member began participation in DROP [~~highest pay period, excluding any pay for overtime work, in the periods during which the member worked full time before participating in the phase down program~~].

(i) The computation of final average [~~total direct~~] pay shall be made in accordance with procedures and policies adopted by the board.

(j) A member participating in the phase-down program, defined in the 2011 labor agreement between the city and the police officers' union, who has separated from service is eligible to receive a monthly service pension as if the member had attained normal retirement age. Notwithstanding any other law, a member participating in option A or B of the phase-down program whose effective date of entry into DROP is on or before the year 2017 effective date is, on exiting the phase-down program and separating from service, eligible to receive a monthly service pension equal to the amount credited to the member's DROP account under Section 14(d) of this article immediately before the member separated from service.

(k) If a member is hired on or after October 9, 2004, the member may elect to receive a partial lump-sum optional payment equal to not more than 20 percent of the actuarial value of the member's accrued pension at retirement. The lump-sum payment under this subsection shall be actuarially neutral. Notwithstanding any other law, if a member elects to receive a lump-sum payment under this subsection, the value of the member's monthly service pension shall be reduced actuarially to reflect the lump-sum payment.

(l) A member who is receiving workers' compensation payments or who has received workers' compensation and subsequently retires or begins participation in DROP will have the member's pension or DROP benefit, as applicable, calculated on the pay that the member would have received had the member not been receiving workers' compensation benefits.

(m) For a member who is promoted or appointed to a position above the rank of captain on or after the year 2017 effective date, the member's monthly service pension and member contributions shall be based on, as determined by the board:

(1) the member's pay for the position the member held immediately before being promoted or appointed; or

(2) the pay of the highest civil rank for classified police officers for those members who have no prior service with the city, which pay must be calculated based on the three-year average prior to retirement.

SECTION 2.15. Section 14, Article 6243g-4, Revised Statutes, is amended by amending Subsections (b), (c), (d), (e), (f-1), (h), (i), (k), and (l) and adding Subsections (c-1) and (c-2) to read as follows:

(b) An active member who was hired before October 9, 2004, including a member hired before October 9, 2004, who has been reinstated under arbitration, civil service, or a court ruling after that date, and has at least 20 years of service with the police department may file with the pension system an election to participate in DROP and receive a DROP benefit instead of the standard form of pension provided by this article as of the date the active member attained 20 years of service. The election may be made, under procedures established by the board, by an eligible active member who has attained the required years of service. A DROP election that is made and accepted by the board may not be revoked [before the member's separation from service].

(c) The monthly service pension or ~~and~~ death benefits of an active member who is a DROP participant that were accrued under this article as it existed immediately before the year 2017 effective date remain accrued.

(c-1) The monthly service pension or death benefits of an active member who becomes a DROP participant on or after the year 2017 effective date will be determined as if the ~~active~~ member had separated from service and begun receiving a pension on the effective date of the member's DROP election and the ~~active~~ member does not retire but does not accrue additional service credit beginning on the effective date of the member's entry into DROP.

(c-2) For a member who exits DROP on or after the year 2017 effective date:

(1) any ~~the election, and~~ increases in the member's pay that occur on or after the effective date of the member's entry into DROP ~~that date~~ may not be used in computing the ~~active~~ member's monthly service pension; and

(2) any ~~except as provided by Subsection (1) of this section, but~~ cost-of-living adjustments that occur on or after the effective date of the member's entry into DROP ~~that date~~ and that otherwise would be applicable to the pension will not be made during the time the member participates in DROP.

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

member had separated from service on the effective date of entry into DROP, less any amount that is intended to help defray the active member's group medical insurance costs as described by Section 12(d) of this article, shall be credited to a notional DROP account for the active member~~], and each month an amount equal to the monthly contributions the active member makes to the fund on and after the effective date of entry into DROP also shall be credited to the same notional DROP account].~~ In any year in which a 13th payment is made to retired members under Section 12(e) of this article, an amount equal to the amount of the 13th payment that would have been made to the DROP participant if the DROP participant had retired on the date of DROP entry will be credited to the DROP account.

(e) As of the end of each month an amount is credited to each active member's notional DROP account at the rate of one-twelfth of a hypothetical earnings rate on amounts in the account. The hypothetical earnings rate is determined for each calendar year based on the compounded average of the aggregate annual rate of return on investments of the pension system for the five consecutive fiscal years ending June 30 preceding the calendar year to which the earnings rate applies, multiplied by 65 percent. The hypothetical earnings rate may not be less than 2.5 percent [zero].

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

(h) Instead of beginning to receive a service pension on separation from service in accordance with Section 12 of this article, a retired member who is a DROP participant may elect to have part or all of the amount that would otherwise be paid as a monthly service pension, less any amount required to pay the retired member's share of group medical insurance costs, credited to a DROP account, in which case the additional amounts will become eligible to be credited with hypothetical earnings in the same manner as the amounts described by Subsection (g) of this section. On and after the year 2017 effective date, additional amounts may not be credited to a DROP account under this subsection. Any amounts credited under this subsection before the year 2017 effective date shall remain accrued in a retired member's DROP account.

(i) A retired member who has not attained age 70-1/2, whether or not a DROP participant before retirement, may elect to have part or all of an amount equal to the monthly service pension the retired member would otherwise be entitled to receive, less any amount required to pay the retired member's share of group medical insurance costs, credited to a DROP account, in which case the amounts will become eligible to be credited with hypothetical earnings in the same manner as the amounts described by Subsection (g) of this section. On and after the year 2017 effective date, additional amounts may not be credited to a DROP account under this subsection. Any amounts credited under this subsection before the year 2017 effective date shall remain accrued in a retired member's DROP account [A retired member who has elected to have monthly service pension benefits credited to a DROP account under this subsection or Subsection (h) of this section may direct that the credits stop and the monthly service pension resume at any time. However, a retired member who stops the credits at any time after September 1, 1999, may not later resume the credits].

(k) If a retired member who is ~~[or was]~~ a DROP participant is rehired as an employee of the police department, any pension or DROP distribution that was being paid shall be suspended and the monthly amount described by Subsection (d) of this section will again begin to be credited to the DROP account while the member continues to be an employee. If the member's DROP account has been completely distributed, a new notional account may not [will] be created and the monthly amount described by Subsection (d) of this section may not be credited to a DROP account on behalf of the member [to receive the member's monthly credits. If a retired member who was never a DROP participant is rehired as an employee of the police department, that member shall be eligible to elect participation in DROP on the same basis as any other member].

(l) The maximum number of years an active member may participate in DROP is 20 years. Except as provided by this subsection, after the DROP participant has reached the maximum number of years of DROP participation prescribed by this subsection, including DROP participants with 20 years or more in DROP on or before the year 2017 effective date, the DROP participant may not receive the monthly service pension that was credited to a notional DROP account but may receive the hypothetical earnings rate stated in Subsection (e) of this section. Notwithstanding the preceding, a member's DROP account balance before the year 2017 effective date may not be reduced under the preceding provisions of this subsection [The DROP account of each DROP participant who was an active member on May 1, 2001, shall be recomputed and adjusted, effective on that date, to reflect the amount that would have been credited to the account if the member's pension had been computed based on 2.75 percent of the member's average total direct pay, or base pay if applicable, for each of the member's first 20 years of service. The DROP account adjustment shall also include the assumed earnings that would have been credited to the account if the 2.75 percent multiplier for the first 20 years of service had been in effect from the time the member became a DROP participant].

SECTION 2.16. Section 15, Article 6243g-4, Revised Statutes, is amended by amending Subsections (a), (b), (c), (d), (e), and (i) and adding Subsections (a-1), (c-1), (l), (m), and (n) to read as follows:

(a) An active member who becomes totally and permanently incapacitated for the performance of the member's duties as a result of a bodily injury received in, or illness caused by, the performance of those duties shall, on presentation to the board of proof of total and permanent incapacity, be retired and shall receive an immediate duty-connected disability pension equal to:

(1) for members hired or rehired before October 9, 2004, the greater of 55 percent of the member's final average [total direct] pay at the time of retirement or the member's accrued service pension; or

(2) for members hired or rehired on or after October 9, 2004, the greater of 45 percent of the member's:

(A) final average pay at the time of retirement; or

(B) accrued service pension.

(a-1) If the injury or illness described by Subsection (a) of this section involves a traumatic event that directly causes an immediate cardiovascular condition resulting in a total disability, the member is eligible for a duty-connected disability pension. A

disability pension granted by the board shall be paid to the member for the remainder of the member's life, ~~[or for]~~ as long as the incapacity remains, subject to Subsection (e) of this section. If a member is a DROP participant at the commencement of the member's disability, the member shall have the option of receiving the DROP balance in any manner that is approved by the board and that satisfies the requirements of Section 401(a)(9) of the code and Treasury Regulation Section 1.104-1(b) (26 C.F.R. Section 1.104-1) and is otherwise available to any other member under this article.

(b) A member ~~[with 10 years or more of credited service]~~ who becomes totally and permanently incapacitated for the performance of the member's duties and is not eligible for either an immediate service pension or a duty-connected disability pension is eligible for an immediate monthly pension computed in the same manner as a service retirement pension but based on final average ~~[total direct]~~ pay and service accrued to the date of the disability. The pension under this subsection may not be less than:

(1) for members hired before October 9, 2004, including a member who involuntarily separated from service but has been retroactively reinstated under arbitration, civil service, or a court ruling, 27.5 percent of the member's final average ~~[total direct]~~ pay; or

(2) except as provided by Subdivision (1) of this subsection, for members hired or rehired on or after October 9, 2004, 22.5 percent of the member's final average pay.

(c) A member hired or rehired before October 9, 2004, who becomes eligible ~~[entitled]~~ to receive a disability pension after November 23, 1998, is eligible ~~[entitled]~~ to receive:

(1) subject to Subsection (c-1) of this section, a one-time lump-sum payment of \$5,000 at the same time the first monthly disability pension payment is made, but only if the member has not previously received a \$5,000 payment under this section or Section 12 of this article; and

(2) ~~[- The retired member shall also receive]~~ an additional amount each month equal to \$150, beginning on the later of the date the pension begins or the date the first monthly payment becomes due after June 18, 2001, and continuing as long as the disability pension continues, to help defray the cost of group medical insurance.

(c-1) For any year in which a 13th payment is made to retired members under Section 12(e) of this article, a 13th payment, computed in the same manner and subject to the same conditions, shall also be paid to members who have retired under this section.

(d) A person may not receive a disability pension unless the person files with the board an application for a disability pension not later than 180 days after the date of separation from service, at which time the board shall have the person examined, not later than the 90th day after the date the member files the application, by a physician or physicians chosen and compensated by the board. The physician shall make a report and recommendations to the board regarding the extent of any disability and whether any disability that is diagnosed is a duty-connected disability. Except as provided by Subsection (j) of this section, a person may not receive a disability pension for an injury received or illness incurred after separation from service. In accordance with Section 6(g) of this article, the board may, through its presiding

officer, issue process, administer oaths, examine witnesses, and compel witnesses to testify as to any matter affecting retirement, disability, or death benefits under any pension plan within the pension system.

(e) A retired member who has been retired for disability is subject at all times to reexamination by a physician chosen and compensated by the board and shall submit to further examination as the board may require. If a retired member refuses to submit to an examination, the board shall ~~may~~ order the payments stopped. If a retired member who has been receiving a disability pension under this section recovers so that in the opinion of the board the retired member is able to perform the usual and customary duties formerly performed for the police department, and the retired member is reinstated or offered reinstatement to the position, or hired by another law enforcement agency to a comparable position ~~[reasonably comparable in rank and responsibility to the position, held at the time of separation from service]~~, the board shall order the member's disability pension stopped. A member may apply for a normal pension benefit, if eligible, if the member's disability benefit payments are stopped by the board under this subsection.

(i) Effective for payments that become due after April 30, 2000, and instead of the disability benefit provided by Subsection (a) ~~or~~ (b) ~~or (b)~~ of this section, a member who suffers a catastrophic injury shall receive a monthly benefit equal to 100 percent of the member's final average ~~total direct~~ pay determined as of the date of retirement, and the member's DROP balance, if any.

(l) A disability pension may not be paid to a member for any disability if:

(1) the disability resulted from an intentionally self-inflicted injury or a chronic illness resulting from:

(A) an addiction by the member through a protracted course of non-coerced ingestion of alcohol, narcotics, or prescription drugs not prescribed to the member; or

(B) other substance abuse; or

(2) except as provided by Subsection (m) of this section, the disability was a result of the member's commission of a felony.

(m) The board may waive Subsection (l)(2) of this section if the board determines that facts exist that mitigate denying the member's application for a disability pension.

(n) A person who fraudulently applies for or receives a disability pension may be subject to criminal and civil prosecution.

SECTION 2.17. Section 16, Article 6243g-4, Revised Statutes, is amended to read as follows:

Sec. 16. RIGHTS OF SURVIVORS. (a) For purposes of this article, a marriage is considered to exist only if the couple is lawfully married under the laws of a state, the District of Columbia, a United States territory, or a foreign jurisdiction and the marriage would be recognized as a marriage under the laws of at least one state, possession, or territory of the United States, regardless of domicile ~~[marriage is recorded in the records of the recorder's office in the county in which the marriage ceremony was performed]~~. In the case of a common-law marriage, a marriage declaration must be signed by the member and the member's common-law spouse before a notary public or similar official and recorded in the records of the applicable

jurisdiction [county clerk's office in the county] in which the couple resides at the commencement of the marriage. In addition, a marriage that is evidenced by a declaration of common-law marriage signed before a notary public or similar official after December 31, 1999, may not be treated as effective earlier than the date on which it was signed before the notary public or similar official.

(b) If a retired member dies after becoming eligible for [entitled to] a service or disability pension, the board shall pay an immediate monthly benefit as follows:

(1) to the surviving spouse for life, if there is a surviving spouse, a sum equal to the pension that was being received by the retired member at the time of death;

(2) to the guardian of any dependent child under 18 years of age or a child with a disability as long as the dependent child complies with the definition of dependent child under Section 2(7) of this article [children], on behalf of the dependent child [children], or directly to a dependent child described by Section 2(7)(B) of this article, and if there is no spouse eligible for [entitled to] an allowance, the sum a surviving spouse would have received, to be divided equally among all [the] dependent children if there is more than one dependent child; or

(3) to any dependent parents for life if no spouse or dependent child is eligible for [entitled to] an allowance, the sum the spouse would have received, to be divided equally between the two parents if there are two dependent parents.

(c) If an active [a] member of the pension system who has not completed 20 [40] years of service in the police department is killed or dies from any cause growing out of or in consequence of any act clearly not in the actual performance of the member's official duty, the member's surviving spouse, dependent child or children, or dependent parent or parents are eligible [entitled] to receive an immediate benefit. The benefit is computed in the same manner as a service retirement pension but is based on the deceased member's service and final average [total-direct] pay at the time of death. The monthly benefit may not be less than:

(1) 27.5 percent of the member's final average [total-direct] pay for members hired before October 9, 2004, including a member who involuntarily separated from service but has been retroactively reinstated under arbitration, civil service, or a court ruling; or

(2) 22.5 percent of the member's final average pay for members hired or rehired on or after October 9, 2004.

(e) If any active member is killed or dies from any cause growing out of or in consequence of the performance of the member's duty, the member's surviving spouse, dependent child or children, or dependent parent or parents are eligible [entitled] to receive immediate benefits computed in accordance with Subsection (b) of this section, except that the benefit [payable to the spouse, or to the guardian of the dependent child or children if there is no surviving spouse, or the dependent parent or parents if there is no surviving spouse or dependent child,] is equal to 100 percent of the member's final average [total-direct] pay, computed as of the date of death.

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

(g) A surviving spouse or dependent who becomes eligible to receive benefits with respect to an active member who was hired or rehired before October 9, 2004, who dies in active service after November 23, 1998, is eligible [entitled] to receive a one-time lump-sum payment of \$5,000 at the time the first monthly pension benefit is paid, if the member has not already received a \$5,000 lump-sum payment under Section 12 or 15(c) of this article. If more than one dependent is eligible to receive a payment under this subsection, the \$5,000 shall be divided equally among the eligible dependents. This payment has no effect on the amount of the surviving spouse's or dependents' monthly pension and may not be paid more than once.

(h) The monthly benefits of surviving spouses or dependents provided under this section, except the \$150 monthly payments described by Subsection (f) of this section, shall be increased annually at the same time and by the same percentage as the pensions of retired members are increased in accordance with Section 12(c) or 12(c-1) of this article. Also, for any year in which a 13th payment is made pursuant to Section 12(e) of this article, a 13th payment, computed in the same manner and subject to the same conditions, shall also be made to the survivor [survivors] who is eligible [are entitled] to receive death benefits at that time if the member would have been entitled to a 13th payment, if living.

(i) If a member or individual receiving a survivor's pension dies before monthly payments have been made for at least five years, leaving no person otherwise eligible [entitled] to receive further monthly payments with respect to the member, the monthly payments shall continue to be made [to the designated beneficiary of the member or survivor, or to the estate of the member or survivor if a beneficiary was not designated,] in the same amount as the last monthly payment made to the member or [;] survivor[; or estate,] until payments have been made for five years with respect to the member. The payments shall be made to the spouse of the member, if living, and if no spouse is living, to the natural or adopted children of the member, to be divided equally among the children if the member has more than one child. If the member has no spouse or children who are living, the benefit may not be paid. If the member dies after becoming eligible to receive benefits [vested] but before payments begin, leaving no survivors eligible for benefits, the amount of each monthly payment over the five-year period shall be the same as the monthly payment the member would have received if the member had taken disability retirement on the date of the member's death and shall be paid to the member's spouse or children in the manner provided by this subsection. If the member has no spouse or children who are living, then the benefit may not be paid [A member may designate a beneficiary in lieu of the member's estate to receive the remaining payments in the event the member and all survivors die before payments have been received for five years]. The member's estate or a beneficiary who is not a survivor or dependent is not eligible [entitled] to receive the payment described by Subsection (g) of this section.

(j) A benefit payment made in accordance with this section on behalf of a minor or other person under a legal disability fully discharges the pension system's obligation to that person.

(k) A retired member or surviving spouse may designate a beneficiary on a form prescribed by the pension system to receive the final monthly payment owed but not received before the member's or surviving spouse's death.

(l) The board may at any time require a person receiving death benefits as a disabled child under this article to undergo a medical examination by a physician appointed or selected by the board for that purpose.

SECTION 2.18. Section 16A, Article 6243g-4, Revised Statutes, is amended to read as follows:

Sec. 16A. BENEFICIARY DESIGNATION FOR DROP. (a) Except for the marriage requirement described by Section 16(a) of this article, the [The] provisions of Section 16 of this article pertaining to rights of survivors do not apply to an amount held in a member's DROP account. A member who participates in DROP may designate a beneficiary in the form and manner prescribed by or on behalf of the board to receive the balance of the member's DROP account in the event of the member's death, as permitted by Section 401(a)(9) of the code and the board's policies. A member who is married is considered to have designated the member's spouse as the member's beneficiary unless the spouse consents, in a notarized writing delivered to the board, to the designation of another person as beneficiary. If no designated beneficiary survives the member, the board shall [may] pay the balance of the member's DROP account to the member's beneficiaries in the following order:

- (1) to the member's spouse;
- (2) if the member does not have a spouse, to each natural or adopted child of the member, or to the guardian of the child if the child is a minor or has a disability, in equal shares;
- (3) if the member does not have a spouse or any children, to each surviving parent of the member in equal shares; or
- (4) if the member has no beneficiaries described by Subdivisions (1), (2), and (3) of this subsection, to the estate of the member.

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

(c) The surviving spouse may designate a beneficiary on a form prescribed by the pension system to receive the balance of the DROP account owed but not received before the surviving spouse's death.

(d) Payment of the balance of the member's DROP account made in accordance with this section on behalf of a minor or other person under a legal disability fully discharges the pension system's obligation to that person.

SECTION 2.19. Section 17, Article 6243g-4, Revised Statutes, is amended by amending Subsections (b), (d), and (e) and adding Subsection (i) to read as follows:

(b) A member of the pension system who has not completed 20 years of service at the time of separation from service with the police department is eligible for ~~[entitled to]~~ a refund of the total of the contributions the member made to the pension system, plus any amount that was contributed for the member by the city and not applied in accordance with this section to provide the member with 10 years of service. The refund does not include interest, and neither the city nor the member is eligible for ~~[entitled to]~~ a refund of the contributions the city made on the member's behalf, except as expressly provided by this subsection. By receiving the refund, the member forfeits any service earned before separation from service, even if it is otherwise nonforfeitable.

(d) A member must apply to the board for a refund within one year after the date of separation from service. Failure to apply for the refund within the one-year period results in a forfeiture of the right to the refund except for an inactive member who is eligible for a pension ~~[whose right to a pension is nonforfeitable]~~. However, the board may reinstate any amount forfeited and allow the refund on application by the former member.

(e) Heirs, executors, administrators, personal representatives, or assignees are not eligible ~~[entitled]~~ to apply for and receive the refund authorized by this section ~~[except as provided by Section 16(e) of this article]~~.

(i) Former members reemployed on or after October 9, 2004, or current members who left service after October 9, 2004, if reemployed by the city, may purchase prior service credit at a rate of interest equal to 2.25 percent per year. Active members hired before October 9, 2004, who have not yet purchased prior service credit or members hired before October 9, 2004, who involuntarily separated from service but have been retroactively reinstated under arbitration, civil service, or a court ruling may purchase prior service credit at a rate of interest equal to 2.75 percent per year. The board may adopt rules necessary to implement this section.

SECTION 2.20. Section 18(a), Article 6243g-4, Revised Statutes, is amended to read as follows:

(a) Except as provided by this section:

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

(2) a person's service will be computed from the date of entry into the service of the police department as a classified police officer until the date of separation from service with the police department; and

(3) a member who received service credit for service with any department in the city other than the police department and who is receiving a monthly pension benefit or who began participation in DROP before the year 2017 effective date shall continue to have the service credit apply.

SECTION 2.21. Sections 19(b) and (d), Article 6243g-4, Revised Statutes, are amended to read as follows:

(b) A person who rejoins the pension system under this section is eligible ~~[entitled]~~ to receive service credit for each day of service and work performed by the person in a classified position in the police department, except for any period during which the person is a DROP participant. The board shall add service earned after the transfer to the prior service the active member accrued in a classified position in the

police department. However, the active member may not receive service credit under this article, except to the extent provided by Section 18, for service performed for the city other than in a classified position in the police department.

(d) When a member who has transferred as described by this section subsequently retires, the retired member is eligible for ~~entitled to~~ a pension computed on the basis of the combined service described by Subsection (b) of this section, after deducting any period in which the member was suspended from duty without pay, on leave of absence without pay, separated from service, or employed by the city in a capacity other than in a classified position in the police department.

SECTION 2.22. Section 21, Article 6243g-4, Revised Statutes, is amended to read as follows:

Sec. 21. DETERMINATION OF BENEFITS; PROVISION OF INFORMATION. (a) The board may require any member, survivor, or other person or entity to furnish information the board requires for the determination of benefits under this article. If a person or entity does not cooperate in the furnishing or obtaining of information required as provided by this section, the board may withhold payment of the pension or other benefits dependent on the information.

(b) The city, not later than the 14th day after the date the city receives a request by or on behalf of the board, shall, unless otherwise prohibited by law, supply the pension system with personnel, payroll, and financial records in the city's possession that the pension system determines necessary to provide pension administrative and fiduciary services under this section, to establish beneficiaries' eligibility for any benefit, or to determine a member's credited service or the amount of any benefits, including disability benefits, and such other information the pension system may need, including:

(1) information needed to verify service, including the following information:

(A) the date a person is sworn in to a position;

(B) the days a person is under suspension;

(C) the days a person is absent without pay, including the days a person is on maternity leave;

(D) the date of a person's termination from employment; and

(E) the date of a person's reemployment with the city;

(2) medical records;

(3) workers' compensation records and pay information;

(4) payroll information;

(5) information needed to verify whether a member is on military leave; and

(6) information regarding phase-down participants, including information

related to entry date and phase-down plan.

(c) The city shall provide any information that may be reasonably necessary to enable the pension system to comply with administrative services the pension system performs for the city as reasonably necessary to obtain any ruling or determination letter from the Internal Revenue Service.

(d) The information provided by the city shall be transmitted to the pension system electronically in a format specified by the pension system, to the extent available to the city, or in writing if so requested on behalf of the pension system.

(e) The pension system shall determine each member's credited service and pension benefits on the basis of the personnel and financial records of the city and the records of the pension system.

SECTION 2.23. Section 23, Article 6243g-4, Revised Statutes, is amended to read as follows:

Sec. 23. MEMBERS IN MILITARY SERVICE. (a) A member of the pension system engaged in active service in a uniformed service may not be required to make the monthly payments into the fund and may not lose any previous years' service with the city because of the uniformed service. The uniformed service shall count as continuous service in the police department if the member returns to the city police department after discharge from the uniformed service as an employee within the period required by the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), as amended, and the uniformed service does not exceed the period for which a person is eligible ~~[entitled]~~ to have service counted pursuant to that Act. Notwithstanding any other provision of this article, contributions and benefits shall be paid and qualified service for military service shall be determined in compliance with Section 414(u) of the code.

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

SECTION 2.24. Section 24(b), Article 6243g-4, Revised Statutes, is amended to read as follows:

(b) Payments due on behalf of a dependent child shall be paid to the dependent child's guardian, if any, or if none to the person with whom the dependent child is living, except that the board may make payments directly to a dependent child in an appropriate case and withhold payments otherwise due on behalf of any person if the board has reason to believe the payments are not being applied on behalf of the person eligible ~~[entitled]~~ to receive them. The board may request a court of competent jurisdiction to appoint a person to receive and administer the payments due to any dependent child or person under a disability.

SECTION 2.25. Section 25, Article 6243g-4, Revised Statutes, is amended by amending Subsections (b), (c), (d), (g), and (h) and adding Subsections (c-1) and (h-1) through (h-13) to read as follows:

(b) A member or survivor of a member of the pension system may not accrue a retirement pension, disability retirement allowance, death benefit allowance, DROP benefit, or any other benefit under this article in excess of the benefit limits applicable to the fund under Section 415 of the code. The board shall reduce the amount of any benefit that exceeds those limits by the amount of the excess. If total benefits under this fund and the benefits and contributions to which any member is eligible ~~[entitled]~~ under any other qualified plans maintained by the city that employs the member would otherwise exceed the applicable limits under Section 415 of the code, the benefits the member would otherwise receive from the fund shall be reduced to the extent necessary to enable the benefits to comply with Section 415.

(c) Subject to Subsection (c-1) of this section, any distributee [~~Any member or survivor~~] who receives [~~any distribution that is~~] an eligible rollover distribution [~~as defined by Section 402(e)(4) of the code~~] is eligible [~~entitled~~] to have that distribution transferred directly to another eligible retirement plan of the distributee's [~~member's or survivor's~~] choice on providing direction to the pension system regarding that transfer in accordance with procedures established by the board.

(c-1) For purposes of Subsection (c) of this section:

(1) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

(2) "Distributee" means a member or a member's surviving spouse or non-spouse designated beneficiary or a member's spouse or former spouse who is the alternate payee under a qualified domestic relations order with regard to the interest of the spouse or former spouse.

(3) "Eligible retirement plan" means:

(A) an individual retirement account as defined by Section 408(a) of the code;

(B) an individual retirement annuity as defined by Section 408(b) of the code;

(C) an annuity plan as described by Section 403(a) of the code;

(D) an eligible deferred compensation plan as defined by Section 457(b) of the code that is maintained by an eligible employer as described by Section 457(e)(1)(A) of the code;

(E) an annuity contract as described by Section 403(b) of the code;

(F) a qualified trust as described by Section 401(a) of the code that accepts the distributee's eligible rollover distribution; and

(G) in the case of an eligible rollover distribution, for a designated beneficiary that is not the surviving spouse, a spouse, or a former spouse who is an alternate payee under a qualified domestic relations order, an eligible retirement plan means only an individual retirement account or individual retirement annuity that is established for the purpose of receiving the distribution on behalf of the beneficiary.

(4) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

(A) any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary or for a specified period of 10 years or more;

(B) any distribution to the extent the distribution is required under Section 401(a)(9) of the code; or

(C) any distribution that is made on hardship of the employee.

(d) The annual compensation for each member [~~total salary~~] taken into account for any purpose under this article [~~for any member of the pension system~~] may not exceed \$200,000 for any year for an eligible participant, or for years beginning after 2001 for an ineligible participant, or \$150,000 a year before 2001 for an ineligible participant. These dollar limits shall be adjusted from time to time in accordance with guidelines provided by the United States secretary of the treasury and must comply

with Section 401(a)(17) of the code. For purposes of this subsection, an eligible participant is a person who first became an active member before 1996, and an ineligible participant is a member who is not an eligible participant.

(g) Distribution of benefits must begin not later than April 1 of the year following the calendar year during which the member eligible for ~~entitled to~~ the benefits becomes 70-1/2 years of age or terminates employment with the employer, whichever is later, and must otherwise conform to Section 401(a)(9) of the code.

(h) For purposes of adjusting any benefit due to the limitations prescribed by Section 415 of the code, the following provisions shall apply:

(1) the 415(b) limitation with respect to any member who at any time has been a member in any other defined benefit plan as defined in Section 414(j) of the code maintained by the city shall apply as if the total benefits payable under all the defined benefit plans in which the member has been a member were payable from one plan; and

(2) the 415(c) limitation with respect to any member who at any time has been a member in any other defined contribution plan as defined in Section 414(i) of the code maintained by the city shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one plan.

(h-1) For purposes of adjusting any benefit due to the limitations prescribed by Section 415(b) of the code, the following provisions shall apply:

(1) before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in Section 415(b) of the code, subject to the applicable adjustments in that section;

(2) on and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in Section 415(b)(1)(A) of the code, subject to the applicable adjustments in Section 415(b) of the code and subject to any additional limits that may be specified in the pension system;

(3) in no event may a member's annual benefit payable under the pension system, including any DROP benefits, in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the code, including regulations adopted under that section; and

(4) the "annual benefit" means a benefit payable annually in the form of a straight life annuity, with no ancillary benefits, without regard to the benefit attributable to any after-tax employee contributions, unless attributable under Section 415(n) of the code, and to rollover contributions as defined in Section 415(b)(2)(A) of the code. For purposes of this subdivision, the "benefit attributable" shall be determined in accordance with applicable federal regulations.

(h-2) For purposes of adjustments to the basic limitation under Section 415(b) of the code in the form of benefits, the following provisions apply:

(1) if the benefit under the pension system is other than the form specified in Subsections (h-1)(1)-(3) of this section, including DROP benefits, the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in applicable federal regulations; and

(2) if the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, Subdivision (1) of this subsection is applied by either reducing the limit under Section 415(b) of the code applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount determined by using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii) that takes into account the additional benefits under the form of benefit as follows:

(A) for a benefit paid in a form to which Section 417(e)(3) of the code does not apply, the actuarially equivalent straight life annuity benefit that is the greater of:

(i) the annual amount of the straight life annuity, if any, payable to the member under the pension system commencing at the same annuity starting date as the form of benefit to the member or the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a five percent interest assumption or the applicable statutory interest assumption; and

(ii) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2), and for years after December 31, 2008, the applicable mortality tables described in Section 417(e)(3)(B) of the code; or

(B) for a benefit paid in a form to which Section 417(e)(3) of the code applies, the actuarially equivalent straight life annuity benefit that is the greatest of:

(i) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;

(ii) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption or the applicable statutory interest assumption, and for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2), and for years after December 31, 2008, the applicable mortality tables described in Section 417(e)(3)(B) of the code; or

(iii) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) using the rate in effect for the month prior to retirement before January 1, 2017, and using the rate in effect for the first day of the plan year with a one-year stabilization period on and after January 1, 2017, and for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2), and for years after December 31, 2008, the applicable mortality tables described in Section 417(e)(3)(B) of the code, divided by 1.05.

(h-3) The pension system actuary may adjust the limitation under Section 415(b) of the code at the annuity starting date in accordance with Subsections (h-1) and (h-2) of this section.

(h-4) The following are benefits for which no adjustment of the limitation in Section 415(b) of the code is required:

(1) any ancillary benefit that is not directly related to retirement income benefits;

(2) the portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity; and

(3) any other benefit not required under Section 415(b)(2) of the code and regulations adopted under that section to be taken into account for purposes of the limitation of Section 415(b)(1) of the code.

(h-5) The following provisions apply to other adjustments of the limitation under Section 415(b) of the code:

(1) in the event the member's pension benefits become payable before the member attains 62 years of age, the limit prescribed by this section shall be reduced in accordance with federal regulations adopted under Section 415(b) of the code, so that that limit, as reduced, equals an annual straight life annuity benefit when the retirement income benefit begins, that is equivalent to a \$160,000, as adjusted, annual benefit beginning at 62 years of age;

(2) in the event the member's benefit is based on at least 15 years of service as a full-time employee of any police or fire department or on 15 years of military service, in accordance with Sections 415(b)(2)(G) and (H) of the code, the adjustments provided for in Subdivision (1) of this section may not apply; and

(3) in accordance with Section 415(b)(2)(I) of the code, the reductions provided for in Subdivision (1) of this section may not be applicable to preretirement disability benefits or preretirement death benefits.

(h-6) The following provisions of this subsection govern adjustment of the defined benefit dollar limitation for benefits commenced after 65 years of age:

(1) if the annuity starting date for the member's benefit is after 65 years of age and the pension system does not have an immediately commencing straight life annuity payable at both 65 years of age and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation, with actuarial equivalence computed using a five percent interest rate assumption and the applicable mortality table for that annuity starting date as defined in Section 417(e)(3)(B) of the code, expressing the member's age based on completed calendar months as of the annuity starting date;

(2) if the annuity starting date for the member's benefit is after age 65, and the pension system has an immediately commencing straight life annuity payable at both 65 years of age and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the lesser of the limitation determined under Subdivision (1) of this section and the defined benefit dollar limitation multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the pension system at the member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the pension system at 65 years of age, both determined without applying the limitations of this subsection; and

(3) notwithstanding the other requirements of this section:

(A) no adjustment shall be made to reflect the probability of a member's death between the annuity starting date and 62 years of age, or between 65 years of age and the annuity starting date, as applicable, if benefits are not forfeited on the death of the member prior to the annuity starting date; and

(B) to the extent benefits are forfeited on death before the annuity starting date, the adjustment shall be made, and for this purpose no forfeiture shall be treated as occurring on the member's death if the pension system does not charge members for providing a qualified preretirement survivor annuity, as defined in Section 417(c) of the code, on the member's death.

(h-7) For the purpose of Subsection (h-6)(2) of this section, the adjusted immediately commencing straight life annuity under the pension system at the member's annuity starting date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after 65 years of age but including actuarial adjustments even if those actuarial adjustments are used to offset accruals, and the adjusted immediately commencing straight life annuity under the pension system at 65 years of age is the annual amount of the annuity that would be payable under the pension system to a hypothetical member who is 65 years of age and has the same accrued benefit as the member.

(h-8) The maximum pension benefits payable to any member who has completed less than 10 years of participation shall be the amount determined under Subsection (h-1) of this section, as adjusted under Subsection (h-2) or (h-5) of this section, multiplied by a fraction, the numerator of which is the number of the member's years of participation and the denominator of which is 10. The limit under Subsection (h-9) of this section concerning the \$10,000 limit shall be similarly reduced for any member who has accrued less than 10 years of service, except the fraction shall be determined with respect to years of service instead of years of participation. The reduction provided by this subsection cannot reduce the maximum benefit below 10 percent of the limit determined without regard to this subsection. The reduction provided for in this subsection may not be applicable to preretirement disability benefits or preretirement death benefits.

(h-9) Notwithstanding Subsection (h-8) of this section, the pension benefit payable with respect to a member shall be deemed not to exceed the limit provided by Section 415 of the code if the benefits payable, with respect to such member under this pension system and under all other qualified defined benefit pension plans to which the city contributes, do not exceed \$10,000 for the applicable limitation year and for any prior limitation year and the city has not at any time maintained a qualified defined contribution plan in which the member participated.

(h-10) On and after January 1, 1995, for purposes of applying the limits under Section 415(b) of the code to a member's benefit paid in a form to which Section 417(e)(3) of the code does not apply, the following provisions apply:

(1) a member's applicable limit shall be applied to the member's annual benefit in the member's first limitation year without regard to any cost-of-living adjustments under Section 12 of this article;

(2) to the extent that the member's annual benefit equals or exceeds the limit, the member shall no longer be eligible for cost-of-living increases until such time as the benefit plus the accumulated increases are less than the limit; and

(3) after the time prescribed by Subdivision (2) of this subsection, in any subsequent limitation year, a member's annual benefit, including any cost-of-living increases under Section 12 of this article, shall be tested under the applicable benefit limit, including any adjustment under Section 415(d) of the code to the dollar limit under Section 415(b)(1)(A) of the code, and the regulations under those sections.

(h-11) Any repayment of contributions, including interest on contributions, to the plan with respect to an amount previously refunded on a forfeiture of service credit under the plan or another governmental plan maintained by the pension system may not be taken into account for purposes of Section 415 of the code, in accordance with applicable federal regulations.

(h-12) Reduction of benefits or contributions to all plans, where required, shall be accomplished by:

(1) first, reducing the member's benefit under any defined benefit plans in which the member participated, with the reduction to be made first with respect to the plan in which the member most recently accrued benefits and then in the priority determined by the pension system and the plan administrator of such other plans; and

(2) next, reducing or allocating excess forfeitures for defined contribution plans in which the member participated, with the reduction to be made first with respect to the plan in which the member most recently accrued benefits and then in the priority determined by the pension system and the plan administrator for such other plans.

(h-13) Notwithstanding Subsection (h-12) of this section, reductions may be made in a different manner and priority pursuant to the agreement of the pension system and the plan administrator of all other plans covering such member. ~~[If the amount of any benefit is to be determined on the basis of actuarial assumptions that are not otherwise specifically set forth for that purpose in this article, the actuarial assumptions to be used are those earnings and mortality assumptions being used on the date of the determination by the pension system's actuary and approved by the board. The actuarial assumptions being used at any particular time shall be attached as an addendum to a copy of this article and treated for all purposes as a part of this article. The actuarial assumptions may be changed by the pension system's actuary at any time if approved by the board, but a change in actuarial assumptions may not result in any decrease in benefits accrued as of the effective date of the change.]~~

SECTION 2.26. Section 26(b)(3), Article 6243g-4, Revised Statutes, is amended to read as follows:

(3) "Maximum benefit" means the retirement benefit a retired member and the spouse, dependent child, or dependent parent of a retired member or deceased member or retiree are eligible ~~entitled~~ to receive from all qualified plans in any month after giving effect to Section 25(b) of this article and any similar provisions of any other qualified plans designed to conform to Section 415 of the code.

SECTION 2.27. Sections 26(c), (d), and (e), Article 6243g-4, Revised Statutes, are amended to read as follows:

(c) An excess benefit participant who is receiving benefits from the pension system is eligible for ~~[entitled to]~~ a monthly benefit under this excess benefit plan in an amount equal to the lesser of:

(1) the member's unrestricted benefit less the maximum benefit; or

(2) the amount by which the member's monthly benefit from the fund has been reduced because of the limitations of Section 415 of the code.

(d) If a spouse, dependent child, or dependent parent is eligible for ~~[entitled to]~~ preretirement or postretirement death benefits under a qualified plan after the death of an excess benefit participant, the surviving spouse, dependent child, or dependent parent is eligible for ~~[entitled to]~~ a monthly benefit under the excess benefit plan equal to the benefit determined in accordance with this article without regard to the limitations under Section 25(b) of this article or Section 415 of the code, less the maximum benefit.

(e) Any benefit to which a person is eligible ~~[entitled]~~ under this section shall be paid at the same time and in the same manner as the benefit would have been paid from the pension system if payment of the benefit from the pension system had not been precluded by Section 25(b) of this article. An excess benefit participant or any beneficiary may not, under any circumstances, elect to defer the receipt of all or any part of a payment due under this section.

SECTION 2.28. The heading to Section 27, Article 6243g-4, Revised Statutes, is amended to read as follows:

Sec. 27. CERTAIN WRITTEN AGREEMENTS BETWEEN PENSION SYSTEM AND CITY AUTHORIZED ~~[AGREEMENT TO CHANGE BENEFITS]~~.

SECTION 2.29. Section 27, Article 6243g-4, Revised Statutes, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A pension benefit or allowance provided by this article may be increased if the increase:

(1) is first approved by a qualified actuary selected by the board;

(2) is approved by the board and the city in a written agreement as authorized by this section; and

(3) does not deprive a member, without the member's written consent, of a right to receive benefits when ~~[that have become fully vested and matured in]~~ the member is fully eligible.

(c) In a written agreement entered into between the city and the board under this section, the parties may not:

(1) alter Sections 9 through 9E of this article, except and only to the extent necessary to comply with federal law;

(2) increase the assumed rate of return to more than seven percent per year;

(3) extend the amortization period of a liability layer to more than 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability layer is first recognized; or

(4) allow a city contribution rate in any year that is less than or greater than the city contribution rate required under Section 9D or 9E of this article, as applicable.

SECTION 2.30. Section 29, Article 6243g-4, Revised Statutes, is amended by adding Subsections (c), (d), (e), (f), and (g) to read as follows:

(c) To carry out the provisions of Sections 9 through 9E of this article, the board and the pension system shall provide the city actuary under a confidentiality agreement the actuarial data used by the pension system actuary for the pension system's actuarial valuations or valuation studies and other data as agreed to between the city and the pension system that the city actuary determines is reasonably necessary for the city actuary to perform the studies required by Sections 9A through 9E of this article. Actuarial data described by this subsection does not include information described by Subsection (a) of this section.

(d) A risk sharing valuation study prepared by either the city actuary or the pension system actuary under Sections 9A through 9E of this article may not:

(1) include information described by Subsection (a) of this section; or

(2) provide confidential or private information regarding specific individuals or be grouped in a manner that allows confidential or private information regarding a specific individual to be discerned.

(e) The information, data, and document exchanges under Sections 9 through 9E of this article have all the protections afforded by applicable law and are expressly exempt from the disclosure requirements under Chapter 552, Government Code, except as may be agreed to by the city and pension system in a written agreement under Section 27 of this article.

(f) Subsection (e) of this section does not apply to:

(1) a proposed risk sharing valuation study prepared by the pension system actuary and provided to the city actuary or prepared by the city actuary and provided to the pension system actuary under Section 9A(d) or 9B(b)(2) of this article; or

(2) a final risk sharing valuation study prepared under Section 9A or 9B of this article.

(g) Before a union contract is approved by the city, the mayor of the city must cause the city actuaries to deliver to the mayor a report estimating the impact of the proposed union contract on fund costs.

SECTION 2.31. Article 6243g-4, Revised Statutes, is amended by adding Section 30 to read as follows:

Sec. 30. FORFEITURE OF BENEFITS. (a) Notwithstanding any other law, a member who is convicted, after exhausting all appeals, of an offense punishable as a felony of the first degree in relation to, arising out of, or in connection with the member's service as a classified police officer may not receive any benefits under this article.

(b) After the member described by Subsection (a) of this section is finally convicted, the member's spouse may apply for benefits if the member, but for application of Subsection (a) of this section, would have been eligible for a pension benefit or a delayed payment of benefits. If the member would not have been eligible for a pension benefit or a delayed payment of benefits, the member's spouse may apply for a refund of the member's contributions. A refund under this subsection does not include interest and does not include contributions the city made on the member's behalf. The city may not receive a refund of any contributions the city made on the member's behalf.

SECTION 2.32. Sections 2(19) and (23), 8(b), 12(f), 14(f) and (m), 15(h) and (j), and 18(b) and (c), Article 6243g-4, Revised Statutes, are repealed.

SECTION 2.33. A city and board that have entered into one or more agreements under Section 27, Article 6243g-4, Revised Statutes, shall agree in writing that any provisions in the agreements that specifically conflict with this Act are no longer in effect, as of the year 2017 effective date, and any nonconflicting provisions of the agreements remain in full force and effect.

SECTION 2.34. The pension system established under Article 6243g-4, Revised Statutes, shall require the pension system actuary to prepare the first actuarial experience study required under Section 9C, Article 6243g-4, Revised Statutes, as added by this Act, not later than September 30, 2022.

### ARTICLE 3. MUNICIPAL EMPLOYEES PENSION SYSTEM

SECTION 3.01. Section 1, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended by amending Subdivisions (1), (4), (5), (7), (11), (14), (18), and (26) and adding Subdivisions (1-a), (1-b), (1-c), (1-d), (1-e), (1-f), (4-a), (4-b), (4-c), (4-d), (4-e), (4-f), (11-a), (11-b), (11-c), (11-d), (11-e), (11-f), (11-g), (11-h), (11-i), (11-j), (11-k), (12-a), (12-b), (14-a), (14-b), (17-a), (18-a), (18-b), (20-a), (21-a), (26-a), (26-b), (28), (29), (30), and (31) to read as follows:

(1) "Actuarial data" includes:

(A) the census data, assumption tables, disclosure of methods, and financial information that are routinely used by the pension system actuary for the pension system's studies or an actuarial experience study under Section 8D of this Act; and

(B) other data that is reasonably necessary to implement Sections 8A through 8F of this Act, as agreed to by the city and pension board.

(1-a) "Actuarial experience study" has the meaning assigned by Section 802.1014, Government Code.

(1-b) "Adjustment factor" means the assumed rate of return less two percentage points.

(1-c) "Amortization period" means the time period necessary to fully pay a liability layer.

(1-d) "Amortization rate" means the sum of the scheduled amortization payments less the city contribution amount for a given fiscal year for the liability layers divided by the projected pensionable payroll for the same fiscal year.

(1-e) "Assumed rate of return" means the assumed market rate of return on pension system assets, which is seven percent per annum unless adjusted as provided by this Act.

(1-f) "Authorized absence" means:

(A) each day an employee is absent due to an approved holiday, vacation, accident, or sickness, if the employee is continued on the employment rolls of the city or the pension system, receives the employee's regular salary from the city or the pension system for each day of absence, and remains eligible to work on recovery or return; or

(B) any period that a person is on military leave of absence under Section 18(a) of this Act, provided the person complies with the requirements of that section.

(4) "City" means a municipality having a population of more than two ~~[4.5]~~ million.

(4-a) "City contribution amount" means, for each fiscal year, a predetermined payment amount expressed in dollars in accordance with a payment schedule amortizing the legacy liability, using the level percent of payroll method and the amortization period and payoff year, that is included in the initial risk sharing valuation study under Section 8C(a)(3) of this Act, as may be restated from time to time in:

(A) a subsequent risk sharing valuation study to reflect adjustments to the amortization schedule authorized by Section 8E or 8F of this Act; or

(B) a restated initial risk sharing valuation study or a subsequent risk sharing valuation study to reflect adjustments authorized by Section 8C(i) or (j) of this Act.

(4-b) "City contribution rate" means a percent of pensionable payroll that is the sum of the employer normal cost rate and the amortization rate for liability layers, excluding the legacy liability, except as determined otherwise under the express provisions of Sections 8E and 8F of this Act.

(4-c) "Corridor" means the range of city contribution rates that are:

(A) equal to or greater than the minimum contribution rate; and

(B) equal to or less than the maximum contribution rate.

(4-d) "Corridor margin" means five percentage points.

(4-e) "Corridor midpoint" means the projected city contribution rate specified for each fiscal year for 31 years in the initial risk sharing valuation study under Section 8C of this Act, and as may be adjusted under Section 8E or 8F of this Act, and in each case rounded to the nearest hundredths decimal place.

(4-f) "Cost-of-living adjustment percentage" means a percentage that:

(A) except as provided by Paragraph (B), is equal to the pension system's five-year investment return, based on a rolling five-year basis and net of investment expenses, minus the adjustment factor, and multiplied by 50 percent; and

(B) may not be less than zero or more than two percent.

(5) "Credited service" means each day of service and prior service of a member for which:

(A) the city ~~[has]~~ and ~~[, for service in group A,]~~ the member have ~~[has]~~ made required contributions to the pension fund that were not subsequently withdrawn;

(B) the member has purchased service credit or converted service credit from group B to group A by paying into the pension fund required amounts that were not subsequently withdrawn;

(C) the member has reinstated service under Section 7(g) of this Act;

and  
(D) the member has previously made payments to the pension fund that, under then existing provisions of law, make the member eligible for credit for the service and that were not subsequently withdrawn.

(7) "Dependent child" means an unmarried natural or legally adopted child of a member, deferred participant, or retiree who:

(A) was supported by the member, deferred participant, or retiree before the termination of employment of the member, deferred participant, or retiree; and

(B) is under 21 years of age or is totally and permanently disabled from performing any full-time employment because of an injury, illness, serious mental illness, intellectual disability, or pervasive development disorder [or retardation] that began before the child became 18 years of age and before the termination of employment [death] of the member, deferred participant, or retiree.

(11) "Employee" means any person, including an elected official during the official's service to the city, who is eligible to be a member of the pension system or to participate in an alternative retirement plan established under this Act and:

(A) who holds a municipal position or a position with the pension system;

(B) whose name appears on a regular full-time payroll of a city or of the pension fund; and

(C) who is paid a regular salary for services.

(11-a) "Employer normal cost rate" means the normal cost rate minus the applicable member contribution rate for newly hired employees, initially set as three percent for group D members on the year 2017 effective date. The present value of additional member contributions different from the group D rate taken into account for purposes of determining the employer normal cost rate must be applied toward the actuarial accrued liability.

(11-b) "Estimated city contribution amount" means the city contribution amount estimated in a final risk sharing valuation study under Section 8B or 8C of this Act, as applicable, as required by Section 8B(a)(5) of this Act.

(11-c) "Estimated city contribution rate" means the city contribution rate estimated in a final risk sharing valuation study under Section 8B or 8C of this Act, as applicable, as required by Section 8B(a)(5) of this Act.

(11-d) "Estimated total city contribution" means the total city contribution estimated by the pension system actuary or the city actuary, as applicable, by using the estimated city contribution rates and the estimated city contribution amounts recommended by each actuary for purposes of preparing the initial risk sharing valuation study under Section 8C of this Act.

(11-e) "Fiscal year," except as provided by Section 1B of this Act, means a fiscal year beginning on July 1 and ending on June 30.

(11-f) "Funded ratio" means the ratio of the pension system's actuarial value of assets divided by the pension system's actuarial accrued liability.

(11-g) "Legacy liability" means the unfunded actuarial accrued liability:

(A) for the fiscal year ending June 30, 2016, reduced to reflect:

(i) changes to benefits and contributions under this Act that took effect on the year 2017 effective date;

(ii) the deposit of pension obligation bond proceeds on December 31, 2017, in accordance with Section 8C(j)(2) of this Act; and

(iii) payments by the city and earnings at the assumed rate of return allocated to the legacy liability from July 1, 2016, to July 1, 2017, excluding July 1, 2017; and

(B) for each subsequent fiscal year:

(i) reduced by the city contribution amount for that year allocated to the amortization of the legacy liability; and

(ii) adjusted by the assumed rate of return.

(11-h) "Level percent of payroll method" means the amortization method that defines the amount of the liability layer recognized each fiscal year as a level percent of pensionable payroll until the amount of the liability layer remaining is reduced to zero.

(11-i) "Liability gain layer" means a liability layer that decreases the unfunded actuarial accrued liability.

(11-j) "Liability layer" means the legacy liability established in the initial risk sharing valuation study under Section 8C of this Act and the unanticipated change as established in each subsequent risk sharing valuation study prepared under Section 8B of this Act.

(11-k) "Liability loss layer" means a liability layer that increases the unfunded actuarial accrued liability. For purposes of this Act, the legacy liability is a liability loss layer.

(12-a) "Maximum contribution rate" means the rate equal to the corridor midpoint plus the corridor margin.

(12-b) "Minimum contribution rate" means the rate equal to the corridor midpoint minus the corridor margin.

(14) "Military service" means active service in the armed forces of the United States or wartime service in the armed forces of the United States or in the allied forces, if credit for military service has not been granted under any federal or other state system or used in any other retirement system, except as expressly required under federal law.

(14-a) "Normal cost rate" means the salary weighted average of the individual normal cost rates determined for the current active population, plus the assumed administrative expenses determined in the most recent actuarial experience study conducted under Section 8D of this Act, expressed as a rate, provided the assumed administrative expenses may not exceed 1.25 percent of pensionable payroll for the current fiscal year unless agreed to by the city.

(14-b) "Payoff year" means the year a liability layer is fully amortized under the amortization period. A payoff year may not be extended or accelerated for a period that is less than one month.

(17-a) "Pension obligation bond" means a bond issued in accordance with Chapter 107, Local Government Code.

(18) "Pension system," unless the context otherwise requires, means the retirement, disability, and survivor benefit plans for municipal employees of a city under this Act and employees under Section 3(d) of this Act.

(18-a) "Pension system actuary" means the actuary engaged by the pension system under Section 2B of this Act.

(18-b) "Pensionable payroll" means the combined salaries, in an applicable fiscal year, paid to all:

(A) members; and

(B) if applicable, participants in any alternative retirement plan established under Section 1C of this Act, including a cash balance retirement plan established under that section.

(20-a) "Price inflation assumption" means:

(A) the most recent headline consumer price index 10-year forecast published in the Federal Reserve Bank of Philadelphia Survey of Professional Forecasters; or

(B) if the forecast described by Paragraph (A) of this subdivision is not available, another standard as determined by mutual agreement between the city and the pension board entered into under Section 3(n) of this Act.

(21-a) "Projected pensionable payroll" means the estimated pensionable payroll for the fiscal year beginning 12 months after the date of the risk sharing valuation study prepared under Section 8B of this Act, at the time of calculation by:

(A) projecting the prior fiscal year's pensionable payroll forward two years using the current payroll growth rate assumptions; and

(B) adjusting, if necessary, for changes in population or other known factors, provided those factors would have a material impact on the calculation, as determined by the pension board.

(26) "Surviving spouse" means a spouse by marriage of [~~person who was married to~~] a member, deferred participant, or retiree at the time of death of the member, deferred participant, or retiree and as of the date of [~~before~~] separation from service by the member, deferred participant, or retiree.

(26-a) "Third quarter line rate" means the corridor midpoint plus 2.5 percentage points.

(26-b) "Total city contribution" means, for a fiscal year, an amount equal to the sum of:

(A) the city contribution rate multiplied by the pensionable payroll for the fiscal year; and

(B) the city contribution amount for the fiscal year.

(28) "Ultimate entry age normal" means an actuarial cost method under which a calculation is made to determine the average uniform and constant percentage rate of contributions that, if applied to the compensation of each member during the entire period of the member's anticipated covered service, would be required to meet the cost of all benefits payable on the member's behalf based on the benefits provisions for newly hired employees. For purposes of this definition, the actuarial accrued liability for each member is the difference between the member's present value of future benefits based on the tier of benefits that apply to the member and the member's present value of future normal costs determined using the normal cost rate.

(29) "Unfunded actuarial accrued liability" means the difference between the actuarial accrued liability and the actuarial value of assets. For purposes of this definition:

(A) "actuarial accrued liability" means the portion of the actuarial present value of projected benefits attributed to past periods of member service based on the cost method used in the risk sharing valuation study prepared under Section 8B or 8C of this Act, as applicable; and

(B) "actuarial value of assets" means the value of pension plan investments as calculated using the asset smoothing method used in the risk sharing valuation study prepared under Section 8B or 8C of this Act, as applicable.

(30) "Unanticipated change" means, with respect to the unfunded actuarial accrued liability in each subsequent risk sharing valuation study prepared under Section 8B of this Act, the difference between:

(A) the remaining balance of all then-existing liability layers as of the date of the risk sharing valuation study; and

(B) the actual unfunded actuarial accrued liability as of the date of the risk sharing valuation study.

(31) "Year 2017 effective date" means the date on which S.B. No. 2190, Acts of the 85th Legislature, Regular Session, 2017, took effect.

SECTION 3.02. Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended by adding Sections 1A, 1B, 1C, 1D, and 1E to read as follows:

Sec. 1A. INTERPRETATION OF ACT. This Act does not and may not be interpreted to:

(1) relieve the city, the pension board, or the pension system of their respective obligations under Sections 8A through 8F of this Act;

(2) reduce or modify the rights of the city, the pension system, or the pension board, including any officer or employee of the city, pension system, or pension board, to enforce obligations described by Subdivision (1) of this subsection;

(3) relieve the city, including any official or employee of the city, from:

(A) paying or directing to pay required contributions to the pension system or fund under Section 8 or 8A of this Act or carrying out the provisions of Sections 8A through 8F of this Act; or

(B) reducing or modifying the rights of the pension board and any officer or employee of the pension board or pension system to enforce obligations described by Subdivision (1) of this section;

(4) relieve the pension board or pension system, including any officer or employee of the pension board or pension system, from any obligation to implement a benefit change or carry out the provisions of Sections 8A through 8F of this Act; or

(5) reduce or modify the rights of the city and any officer or employee of the city to enforce an obligation described by Subdivision (4) of this section.

Sec. 1B. FISCAL YEAR. If either the pension system or the city changes its respective fiscal year, the pension system and the city shall enter into a written agreement under Section 3(n) of this Act to adjust the provisions of Sections 8A through 8F of this Act to reflect that change for purposes of this Act.

Sec. 1C. ALTERNATIVE RETIREMENT PLANS. (a) In this section, "salary-based benefit plan" means a retirement plan provided by the pension system under this Act that provides member benefits that are calculated in accordance with a formula that is based on multiple factors, one of which is the member's salary at the time of the member's retirement.

(b) Notwithstanding any other law, including Section 8H of this Act, and except as provided by Subsection (c) of this section, the pension board and the city may enter into a written agreement under Section 3(n) of this Act to offer an alternative retirement plan or plans, including a cash balance retirement plan or plans, if both parties consider it appropriate.

(c) Notwithstanding any other law, including Section 8H of this Act, and except as provided by Subsection (d) of this section, if, beginning with the final risk sharing valuation study prepared under Section 8B of this Act on or after July 1, 2027, either the funded ratio of the pension system is less than 60 percent as determined in the final risk sharing valuation study without making any adjustments under Section 8E or 8F of this Act, or the funded ratio of the pension system is less than 60 percent as determined in a revised and restated risk sharing valuation study prepared under Section 8B(a)(8) of this Act, the pension board and the city shall, as soon as practicable but not later than the 60th day after the date the determination is made:

(1) enter into a written agreement under Section 3(n) of this Act to establish a cash balance retirement plan that complies with Section 1D of this Act; and

(2) require each employee first hired by the city on or after the 90th day after the date the cash balance retirement plan is established to participate in the cash balance retirement plan established under this subsection instead of participating in the salary-based benefit plan, provided the employee would have otherwise been eligible to participate in the salary-based benefit plan.

(d) If the city fails to deliver the proceeds of the pension obligation bonds described by Section 8C(j)(1) of this Act within the time prescribed by that subdivision, notwithstanding the funded ratio of the pension system, the pension board and the city may not establish a cash balance retirement plan under Subsection (c) of this section.

Sec. 1D. REQUIREMENTS FOR CERTAIN CASH BALANCE RETIREMENT PLANS. (a) In this section:

(1) "Cash balance plan participant" means an employee who participates in a cash balance retirement plan.

(2) "Cash balance retirement plan" means a cash balance retirement plan established by written agreement under Section 1C(b) or Section 1C(c) of this Act.

(3) "Interest" means the interest credited to a cash balance plan participant's notional account, which may not:

(A) exceed a percentage rate equal to the cash balance retirement plan's most recent five fiscal years' smoothed rate of return; or

(B) be less than zero percent.

(4) "Salary-based benefit plan" has the meaning assigned by Section 1C of this Act.

(b) The written agreement establishing a cash balance retirement plan must:

(1) provide for the administration of the cash balance retirement plan;

(2) provide for a closed amortization period not to exceed 20 years from the date an actuarial gain or loss is realized;

(3) provide for the crediting of city and cash balance plan participant contributions to each cash balance plan participant's notional account;

(4) provide for the crediting of interest to each cash balance plan participant's notional account;

(5) include a vesting schedule;

(6) include benefit options, including options for cash balance plan participants who separate from service prior to retirement;

(7) provide for death and disability benefits;

(8) allow a cash balance plan participant who is eligible to retire under the plan to elect to:

(A) receive a monthly annuity payable for the life of the cash balance plan participant in an amount actuarially determined on the date of the cash balance plan participant's retirement based on the cash balance plan participant's accumulated notional account balance annuitized in accordance with the actuarial assumptions and actuarial methods established in the most recent actuarial experience study conducted under Section 8D of this Act, except that the assumed rate of return applied may not exceed the pension system's assumed rate of return in the most recent risk sharing valuation study; or

(B) receive a single, partial lump-sum payment from the cash balance plan participant's accumulated account balance and a monthly annuity payable for life in an amount determined in accordance with Paragraph (A) of this subdivision based on the cash balance plan participant's account balance after receiving the partial lump-sum payment; and

(9) include any other provision determined necessary by:

(A) the pension board and the city; or

(B) the pension system for purposes of maintaining the tax-qualified status of the pension system under Section 401, Internal Revenue Code of 1986, as amended.

(c) Notwithstanding any other law, including Section 5 of this Act, an employee who participates in a cash balance retirement plan:

(1) subject to Subsection (d) of this section, is not eligible to be a member of and may not participate in the salary-based benefit plan; and

(2) may not earn credited service in the salary-based benefit plan during the period the employee is participating in the cash balance retirement plan.

(d) A cash balance plan participant is considered a member for purposes of Section 8A through 8I of this Act.

(e) At the time of implementation of the cash balance retirement plan, the employer normal cost rate of the cash balance retirement plan may not exceed the employer normal cost rate of the salary-based benefit plan.

Sec. 1E. CONFLICT OF LAW. To the extent of a conflict between this Act and any other law, this Act prevails.

SECTION 3.03. Section 2, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended by amending Subsections (c), (d), (g), (j), (l), and (n) and adding Subsections (c-1), (c-2), (c-3), (c-4), (j-1), (j-2), (ee), (ff), (gg), (hh), (ii), and (jj) to read as follows:

(c) The pension board consists of 11 ~~nine~~ trustees as follows:

(1) one person appointed by the mayor of the city [~~or the director of the civil service commission as the mayor's representative~~];

(2) one person appointed by the controller of the city [~~treasurer or a person performing the duties of treasurer~~];

(3) four municipal employees of the city who are members of the pension system;

(4) two retirees, each of whom:

(A) has at least five years of credited service in the pension system;

(B) receives a retirement pension from the pension system; and

(C) is not an officer or employee of the city; [~~and~~]

(5) one person appointed by the elected trustees who [~~is~~]  
 [~~(A)~~] has been a resident of this state for the three years preceding the date of initial appointment; and

(6) two persons appointed by the governing body of the city [~~(B) is not a city officer or employee~~].

(c-1) To serve as a trustee under Subsection (c)(1), (2), or (6) of this section, a person may not be a participant in or beneficiary of the pension system.

(c-2) A trustee appointed under Subsection (c)(1), (2), (5), or (6) of this section must have expertise in at least one of the following areas: accounting, finance, pensions, investments, or actuarial science. Of the trustees appointed under Subsections (c)(1), (2), and (6) of this section, not more than two trustees may have expertise in the same area.

(c-3) A trustee appointed under Subsection (c)(1) of this section shall serve a three-year term expiring in July of the applicable year. The appointed trustee may be removed at any time by the mayor. The mayor shall fill a vacancy caused by the trustee's death, resignation, or removal and the person appointed to fill the vacancy shall serve the remainder of the unexpired term of the replaced trustee and may not serve beyond the expiration of the unexpired term unless appointed by the mayor.

(c-4) A trustee appointed under Subsection (c)(2) of this section shall serve a three-year term expiring in July of the applicable year. The appointed trustee may be removed at any time by the controller. The controller shall fill a vacancy caused by the trustee's death, resignation, or removal and the person appointed to fill the vacancy shall serve the remainder of the unexpired term of the replaced trustee and may not serve beyond the expiration of the unexpired term unless appointed by the controller.

(d) To serve as a trustee under Subsection (c)(3) of this section, a person must be a member with at least five years of credited service and be elected by the active members of the pension system voting at an election called by the pension board. No more than two of the employee trustees may be employees of the same department.

(g) To serve as a trustee under Subsection (c)(4) of this section, a person must be elected by a majority of the retirees voting [~~retired members of the pension system~~] at an election called by the pension board.

(j) To serve as a trustee under Subsection (c)(5) of this section, the person must be appointed by a vote of a majority of the elected trustees of the pension board. The trustee appointed under Subsection (c)(5) of this section shall serve [~~serves~~] a three-year [~~two-year~~] term. The appointment or reappointment of the appointed trustee

shall take place in July ~~January~~ of the ~~each even-numbered~~ year in which the term ends. The appointed trustee may be removed at any time by a vote of a majority of the elected trustees of the pension board. A vacancy caused by the appointed trustee's death, resignation, or removal shall be filled by the elected trustees of the pension board. The appointee serves for the remainder of the unexpired term of the replaced trustee. An appointed trustee may not serve beyond the expiration of the three-year ~~[two-year]~~ term unless a majority of ~~[other than by appointment for a new term by]~~ the elected trustees of the pension board reappoint the trustee for a new term.

(j-1) To serve as a trustee under Subsection (c)(6) of this section, a person must be appointed by a vote of a majority of the members of the governing body of the city. Each trustee appointed under Subsection (c)(6) of this section shall serve three-year terms expiring in July of the applicable year. A trustee appointed under Subsection (c)(6) of this section may be removed at any time by a vote of a majority of the members of the governing body of the city. A vacancy caused by the appointed trustee's death, resignation, or removal shall be filled by a vote of a majority of the members of the governing body of the city. A person appointed to fill the vacancy shall serve the remainder of the unexpired term of the replaced trustee, and may not serve beyond the expiration of the unexpired term unless appointed by the governing body of the city.

(j-2) If a majority of the pension board determines that a trustee appointed under Subsection (c)(1), (2), or (6) of this section has acted or is acting in a manner that conflicts with the interests of the pension system or is in violation of this Act or any agreement between the pension board and the city entered into under Section 3(n) of this Act, the pension board may recommend to the mayor, controller, or governing body, as appropriate, that the appointed trustee be removed from the pension board. If the appointed trustee was appointed by the governing body of the city, an action item concerning the pension board's recommendation shall be placed on the governing body's agenda for consideration and action. The governing body shall make a determination on the recommendation and communicate the determination to the pension system not later than the 45th day after the date of the recommendation.

(l) To serve on the pension board, each ~~Each~~ trustee shall, on or before ~~at~~ the first pension board meeting following the trustee's most recent election or appointment, take an oath of office that the trustee:

- (1) will diligently and honestly administer the pension system; and
- (2) will not knowingly violate this Act or willingly allow a violation of this Act to occur.

(n) The person serving as a trustee under Subsection (c)(2) of this section serves as the treasurer of the pension fund ~~[under penalty of that person's official bond and oath of office].~~ The treasurer shall file an ~~[That person's]~~ official bond payable to the ~~[city shall cover the person's position as treasurer of the]~~ pension system. The treasurer is ~~[fund, and that person's sureties are]~~ liable on ~~[for]~~ the treasurer's official bond for the faithful performance of the treasurer's duties under this Act in connection with ~~[actions pertaining to]~~ the pension fund ~~[to the same extent as the sureties are liable under the terms of the bond for other actions and conduct of the treasurer].~~

(ee) A trustee appointed under Subsection (c)(1), (2), (5), or (6) of this section who fails to attend at least 50 percent of all regular pension board meetings, as determined annually each July 1, may be removed from the pension board by the appointing entity. A trustee removed under this subsection may not be appointed as a trustee for one year following removal.

(ff) All trustees appointed under Subsection (c) of this section shall complete minimum educational training requirements established by the State Pension Review Board. The appointing entity may remove an appointed trustee who does not complete minimum educational training requirements during the period prescribed by the State Pension Review Board.

(gg) The pension board shall adopt an ethics policy governing, among other matters, conflicts of interest that each trustee must comply with during the trustee's term on the pension board.

(hh) During a trustee's term on the pension board and for one year after leaving the pension board, a trustee may not represent any other person or organization in any formal or informal appearance before the pension board or pension system staff concerning a matter for which the person has or had responsibility as a trustee.

(ii) The pension board may establish standing or temporary committees as necessary to assist the board in carrying out its business, including committees responsible for risk management or governance, investments, administration and compensation, financial and actuarial matters, audits, disability determinations, and agreements under Section 3(n) of this Act. The pension board shall establish a committee responsible for agreements under Section 3(n) of this Act that must be composed of the elected trustees and the trustee appointed by the elected trustees. Except for a committee responsible for agreements under Section 3(n) of this Act and any committee responsible for personnel issues:

(1) each committee must include at least one elected trustee and one trustee appointed by the mayor, controller, or governing body of the city;

(2) committee meetings are open to all trustees; and

(3) a committee may not make final decisions and may only make recommendations to the pension board.

(jj) Subsections (x)(1) through (4), (y), and (cc) of this section do not grant the pension board authority to modify or terminate Sections 8A through 8F of this Act.

SECTION 3.04. Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended by adding Sections 2A, 2B, 2C, and 2D to read as follows:

Sec. 2A. CONFLICTS OF INTEREST. (a) The existence or appearance of a conflict of interest on the part of any trustee is detrimental to the proper functioning of the pension system if not properly addressed. An appointed trustee may not deliberate or vote on an action relating to the investment of pension system assets if:

(1) the trustee or an entity with which the trustee is affiliated:

(A) is a competitor or an affiliate of the person or firm that is the subject of or otherwise under consideration in the action; or

(B) likely would be subject to a due diligence review by the person or firm that is under consideration in the investment-related action; or

(2) the pension board otherwise determines that the proposed action would create a direct or indirect benefit for the appointed trustee or a firm with which the appointed trustee is affiliated.

(b) The city attorney shall:

(1) provide annual training to trustees appointed by the city regarding conflicts of interest; and

(2) to the extent authorized by city ordinances, at the request of the external affairs committee of the pension board, review and take appropriate action on a complaint alleging a conflict of interest on the part of a city-appointed trustee.

Sec. 2B. PENSION SYSTEM ACTUARY; ACTUARIAL VALUATIONS.

(a) The pension board shall retain an actuary or actuarial firm for purposes of this Act.

(b) At least annually, the pension system actuary shall make a valuation of the assets and liabilities of the pension fund. The valuation must include the risk sharing valuation study conducted under Section 8B or 8C of this Act, as applicable.

(c) The pension system shall provide a report of the valuation to the city.

Sec. 2C. QUALIFICATIONS OF CITY ACTUARY. (a) An actuary hired by the city for purposes of this Act must be an actuary from a professional service firm who:

(1) is not already engaged by the pension system or any other pension system or fund authorized under Article 6243e.2(1) or 6243g-4, Revised Statutes, to provide actuarial services to the pension system or fund, as applicable;

(2) has a minimum of 10 years of professional actuarial experience; and

(3) is a fellow of the Society of Actuaries or a member of the American Academy of Actuaries and who, in carrying out duties for the city, has met the applicable requirements to issue statements of actuarial opinion.

(b) Notwithstanding Subsection (a) of this section, the city actuary must at least meet the qualifications required by the board for the pension system actuary. The city actuary is not required to have greater qualifications than those of the pension system actuary.

Sec. 2D. REPORT ON INVESTMENTS BY INDEPENDENT INVESTMENT CONSULTANT. (a) At least once every three years, the board shall hire an independent investment consultant, including an independent investment consulting firm, to conduct a review of pension system investments and submit a report to the board and the city concerning the review or demonstrate in the pension system's annual financial report that the review was conducted. The independent investment consultant shall review and report on at least the following:

(1) the pension system's compliance with its investment policy statement, ethics policies, including policies concerning the acceptance of gifts, and policies concerning insider trading;

(2) the pension system's asset allocation, including a review and discussion of the various risks, objectives, and expected future cash flows;

(3) the pension system's portfolio structure, including the pension system's need for liquidity, cash income, real return, and inflation protection and the active, passive, or index approaches for different portions of the portfolio;

(4) investment manager performance reviews and an evaluation of the processes used to retain and evaluate managers;

(5) benchmarks used for each asset class and individual manager;

(6) an evaluation of fees and trading costs;

(7) an evaluation of any leverage, foreign exchange, or other hedging transaction; and

(8) an evaluation of investment-related disclosures in the pension system's annual reports.

(b) When the board retains an independent investment consultant under this section, the pension system may require the consultant to agree in writing to maintain the confidentiality of:

(1) information provided to the consultant that is reasonably necessary to conduct a review under this section; and

(2) any nonpublic information provided for the pension system for the review.

(c) The costs for the investment report required by this section shall be paid from the pension fund.

SECTION 3.05. Section 3, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended by amending Subsections (f) and (n) and adding Subsections (o), (p), (q), (r), and (s) to read as follows:

(f) The pension board shall compensate from the pension fund the persons performing services under Subsections (d) and (e) of this section and may provide other employee benefits that the pension board considers proper. Any person employed by the pension board under Subsection (d) or (e) of this section who has service credits with the pension system at the time of the person's employment by the pension board retains the person's status in the pension system. Any person employed by the pension system on or after January 1, 2008, who does not have service credits with the pension system at the time of employment is a group D ~~A~~ member in accordance with Section 5 of this Act. The pension board shall adopt a detailed annual budget detailing its proposed administrative expenditures under this subsection for the next fiscal year.

(n) Notwithstanding any other law and except as specifically limited by Subsection (o) of this section, the pension board may enter into a written agreement with the city regarding pension issues and benefits. The agreement must be approved by the pension board and the governing body of the city and signed by the mayor and by the pension board or the pension board's designee. The agreement is enforceable against and binding on the pension board, the city, and the pension system, including the pension system's members, retirees, deferred participants, beneficiaries, eligible survivors, and alternate payees. Any reference in this Act to an agreement between the city and the pension board or pension system is a reference to an agreement entered under this subsection.

(o) In any written agreement entered into between the city and the pension board under Subsection (n) of this section, the parties may not:

(1) alter Sections 8A through 8F of this Act, except and only to the extent necessary to comply with federal law;

(2) increase the assumed rate of return to more than seven percent per year;  
(3) extend the amortization period of a liability layer to more than 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability layer is first recognized; or

(4) allow a total city contribution in any fiscal year that is less than the total city contribution required under Section 8E or 8F, as applicable, of this Act.

(p) Annually on or before the end of the fiscal year, the pension board shall make a report to the mayor and the governing body of the city, each of which shall provide a reasonable opportunity for the pension board to prepare and present the report.

(q) The pension board shall provide quarterly investment reports to the mayor.

(r) At the mayor's request, the pension board shall meet, discuss, and analyze with the mayor or the mayor's representatives any city proposed policy changes and ordinances that may have a financial effect on the pension system.

(s) The pension board shall work to reduce administrative expenses, including by working with any other pension fund to which the city contributes.

SECTION 3.06. Section 5, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended by amending Subsections (b), (e), (f), and (g) and adding Subsections (j) and (k) to read as follows:

(b) Except as provided by Subsection (c), (j), or (k) of this section and Sections 4 and 6 of this Act, an employee is a group A member of the pension system as a condition of employment if the employee:

(1) is hired or rehired as an employee by the city, the predecessor system, or the pension system on or after September 1, 1999, and before January 1, 2008;

(2) was a member of the predecessor system before September 1, 1981, under the terms of Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), and did not make an election before December 1, 1981, under Section 22(a) of that Act to receive a refund of contributions and become a group B member;

(3) was a group A member who terminated employment included in the predecessor system before May 3, 1991, elected under Section 16, Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), to leave the member's contributions in that pension fund, met the minimum service requirements for retirement at an attained age, was reemployed in a position included in the predecessor system before September 1, 1999, and elected, not later than the 30th day after the date reemployment began, to continue as a group A member;

(4) became a member of, or resumed membership in, the predecessor system as an employee or elected official of the city after January 1, 1996, and before September 1, 1999, and elected by submission of a signed and notarized form in a manner determined by the pension board to become a group A member and to contribute a portion of the person's salary to the pension fund as required by Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes); or

(5) met the requirements of Section 3B, Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), or Subsection (f) of this section for membership in group A.

(e) Any member or former member of the pension system elected to an office of the city on or after September 1, 1999, and before January 1, 2008, is [becomes] a group A member and is eligible to receive credit for all previous service on the same conditions as reemployed group A members under Sections 7(c), (d), (e), and (f) of this Act, except as otherwise provided by this Act. For purposes of this subsection [Notwithstanding any other provision in this Act or in Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes)], consecutive terms of office of any elected member who is elected to an office of the city are considered to be continuous employment for purposes of this Act.

(f) Each group B member of the pension system may make an irrevocable election on a date and in a manner determined by the pension board to change membership from group B to group A:

(1) for future service only; or

(2) for future service and to convert all past group B service to group A service and comply with the requirements of Subsection (h) of this section provided the service is converted before December 31, 2005.

(g) Each group A member with service in group B may make an irrevocable election not later than December 31, 2005, [on a date] and in a manner determined by the pension board to convert all group B service to group A service and to comply with the requirements of Subsection (h) of this section.

(j) Except as provided by Subsection (k) of this section or Section 4 of this Act, an employee is a group D member of the pension system as a condition of employment if the employee is hired as an employee by the city or the pension system on or after January 1, 2008.

(k) Notwithstanding any provision of this section, for purposes of Subsection (j) of this section:

(1) consecutive terms of office of an elected member who is elected to an office of the city are considered to be continuous employment; and

(2) a former employee who is rehired as an employee by the city or the pension system on or after January 1, 2008, is, as a condition of employment, a member of the group in which that employee participated at the time of the employee's immediately preceding separation from service.

SECTION 3.07. Section 6, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended by adding Subsections (k) and (l) to read as follows:

(k) Notwithstanding any other law, including Subsection (b)(3) of this section, Subsections (a) through (j) of this section do not apply to any employee on or after January 1, 2005. An employee who meets the definition of "executive official" under Subsection (b)(3) of this section is a group A member beginning January 1, 2005, for credited service earned on or after January 1, 2005, or a member of the applicable group under Section 5 of this Act. This subsection does not affect:

(1) any credited service or benefit percentage accrued in group C before January 1, 2005;

(2) any group C benefit that a deferred participant or retiree is eligible to receive that was earned before January 1, 2005; or

(3) the terms of any obligation to purchase service credit or convert service credit to group C that was entered into before January 1, 2005.

(l) A group C member who terminates employment before January 1, 2005, is subject to the retirement eligibility requirements in effect on the date of the member's termination from employment. A group C member who becomes a group A member under Subsection (k) of this section on January 1, 2005, is subject to the retirement eligibility requirements under Section 10 of this Act.

SECTION 3.08. Section 7, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended by amending Subsections (a), (c), (e), (f), (g), and (h) and adding Subsections (g-1), (g-2), (i), (j), (k), and (l) to read as follows:

(a) Notwithstanding any other provision of this Act, duplication of service or credited service in group A, B, ~~[or] C, or D~~ of the pension system or in the pension system and any other defined benefit pension plan to which the city contributes is prohibited.

(c) Except as provided by Section 12 of this Act, a ~~[group A]~~ member may pay into the pension fund and obtain credit for any service with the city or the pension system for which credit is otherwise allowable ~~[in group A]~~ under this Act, except that:

(1) no required contributions were made by the member for the service; or

(2) refunded contributions attributable to the service have not been subsequently repaid.

(e) To establish service described by Subsection (c) of this section that occurred on or after September 1, 1999, the member shall pay a sum computed by multiplying the member's salary during the service by the rate established ~~[by the pension board]~~ for member contributions under Section 8 of this Act, and the city shall pay into the pension fund an amount equal to the rate established for city contributions under Section 8A ~~[8]~~ of this Act ~~[multiplied by that member's salary for the same period]~~.

(f) In addition to the amounts to be paid by the member under Subsection (d) or (e) of this section, the member shall also pay interest on those amounts at the current assumed rate of return ~~[six percent]~~ per year, not compounded, from the date the contributions would have been deducted, if made, or from the date contributions were refunded to the date of repayment of those contributions into the pension fund.

(g) Before the year 2017 effective date, if ~~[H]~~ a group B or group D member separates from service before completing five years of credited service, the member's service credit is canceled at the time of separation. If the member is reemployed by the city in a position covered by the pension system before the first anniversary of the date of separation, all credit for previous service is restored. Any member whose service credit is canceled under this subsection and who is reemployed by the city in a position covered by the pension system after the first anniversary of the date of separation receives one year of previous service credit in group B or group D, as applicable, for each full year of subsequent service up to the amount of the previous service that was canceled.

(g-1) On or after the year 2017 effective date, if a group B or group D member who has made required member contributions separates from service before completing five years of credited service, the member's service credit is canceled at the time of separation and the member is eligible to receive a refund of required member contributions as provided by Section 17 of this Act. If the member is reemployed before the first anniversary of the date of separation:

(1) subject to Subdivision (2) of this subsection, all credit for previous service for which no member contributions were required is restored, along with credit for previous service for which the member did not receive a refund of contributions; and

(2) if the member's service credit is canceled under this subsection, the member is eligible to reinstate the canceled credited service by paying the pension system the refund amount, if any, plus interest on those amounts at the current assumed rate of return per year, not compounded, from the date contributions were refunded to the date of repayment of those contributions to the pension fund.

(g-2) For purposes of Subsection (g-1)(2) of this section, for any canceled service for which contributions were not required, the member receives one year of previous service credit in group B or group D, as appropriate, for each full year of subsequent service up to the amount of the previous service that was canceled.

(h) A group B member who was a group A member before September 1, 1981, and who was eligible to purchase credit for previous service under Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), may purchase the service credit in group B by paying into the pension fund an amount equal to the assumed rate of return [~~six percent~~] per year, not compounded, on any contributions previously withdrawn for the period from the date of withdrawal to the date of purchase.

(i) Under rules and procedures adopted by the pension board, a group D member may effectuate a direct trustee-to-trustee transfer from a qualifying code Section 457(b) plan to the pension system to purchase an increased or enhanced benefit in accordance with the provisions of code Sections 415(n) and 457(e)(17) of the Internal Revenue Code of 1986. The amount transferred under this subsection shall be held by the pension system and the pension system may not separately account for the amount. The pension board by rule shall determine the additional benefit that a member is entitled to based on a transfer under this subsection.

(j) For purposes of this subsection and Subsection (k) of this section, "furlough time" means the number of days a person has been furloughed. A person who has been voluntarily or involuntarily furloughed shall receive credited service for each day that the person has been furloughed, provided that:

(1) the pension system receives all required city contributions and member contributions for the credited service attributable to the furlough time for the pay period in which the furlough occurs, based on the regular salary that each furloughed member would have received if the member had worked during the furlough time;

(2) the member may receive not more than 10 days of credited service in a fiscal year for furlough time; and

(3) credited service for furlough time may not be used to meet the five-year requirement under Section 10(b) of this Act for eligibility for a benefit.

(k) For purposes of Subsection (j) of this section, the city shall establish a unique pay code for furlough time to provide for timely payment of city contributions and member contributions for furlough time and to allow the pension system to identify furlough time for each furloughed employee.

(l) Notwithstanding any provision of this section, the interest rate on any service purchase shall be the then current assumed rate of return, not compounded.

SECTION 3.09. The heading to Section 8, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. MEMBER CONTRIBUTIONS.

SECTION 3.10. Sections 8(a), (b), and (c), Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Subject to adjustments authorized under Section 8E or 8F of this Act, beginning on the year 2017 effective date, each [Each group A] member of the pension system shall make biweekly [monthly] contributions during employment in an amount determined in accordance with this section [by the pension board and expressed as a percentage of salary]. The contributions shall be deducted by the employer from the salary of each member and paid to the pension system for deposit in the pension fund. Member contributions under this section shall be made as follows:

(1) each group A member shall contribute:

(A) seven percent of the member's salary beginning with the member's first full biweekly pay period that occurs on or after the year 2017 effective date; and

(B) a total of eight percent of the member's salary beginning with the member's first full biweekly pay period for the member that occurs on or after July 1, 2018;

(2) each group B member shall contribute:

(A) two percent of the member's salary beginning with the member's first full biweekly pay period that occurs on or after the year 2017 effective date; and

(B) a total of four percent of the member's salary beginning with the member's first full biweekly pay period for the member that occurs on or after July 1, 2018; and

(3) each group D member shall contribute two percent of the member's salary beginning with the member's first full biweekly pay period that occurs on or after the year 2017 effective date.

(b) This section does not increase or decrease the contribution obligation of any member that arose before the year 2017 effective date [September 1, 2001,] or give rise to any claim for a refund for any contributions made before that date.

(c) The employer shall pick up the contributions required of [group A] members by Subsection (a) of this section and contributions required of group D members under Section 10A(a) of this Act as soon as reasonably practicable under applicable rules for all salaries earned by members after the year 2017 effective date and by January 1, 2018, for contributions required by Section 10A(a) of this Act. The city shall pay the pickup contributions to the pension system from the same source of funds that is used for paying salaries to the members. The pickup contributions are in

lieu of contributions by ~~[group A]~~ members. The city may pick up those contributions by a deduction from each ~~[group A]~~ member's salary equal to the amount of the member's contributions picked up by the city. Members may not choose to receive the contributed amounts directly instead of having the contributed amounts paid by the city to the pension system. An accounting of member contributions picked up by the employer shall be maintained, and the contributions shall be treated for all other purposes as if the amount were a part of the member's salary and had been deducted under this section. Contributions picked up under this subsection shall be treated as employer contributions in determining tax treatment of the amounts under the Internal Revenue Code of 1986, as amended.

SECTION 3.11. Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended by adding Sections 8A, 8B, 8C, 8D, 8E, 8F, 8G, 8H, and 8I to read as follows:

Sec. 8A. CITY CONTRIBUTIONS. (a) The city shall make contributions to the pension system for deposit into the pension fund as provided by this section and Section 8B, 8C, 8E, or 8F of this Act, as applicable. The city shall contribute:

(1) beginning with the year 2017 effective date and ending with the fiscal year ending June 30, 2018, an amount equal to the sum of:

(A) the city contribution rate, as determined in the initial risk sharing valuation study conducted under Section 8C of this Act, multiplied by the pensionable payroll for the fiscal year; and

(B) the city contribution amount for the fiscal year; and

(2) for each fiscal year after the fiscal year ending June 30, 2018, an amount equal to the sum of:

(A) the city contribution rate, as determined in a subsequent risk sharing valuation study conducted under Section 8B of this Act and adjusted under Section 8E or 8F of this Act, as applicable, multiplied by the pensionable payroll for the applicable fiscal year; and

(B) except as provided by Subsection (e) of this section, the city contribution amount for the applicable fiscal year.

(b) Except by written agreement between the city and the pension board under Section 3(n) of this Act providing for an earlier contribution date, at least biweekly, the city shall make the contributions required by Subsection (a) of this section by depositing with the pension system an amount equal to the sum of:

(1) the city contribution rate multiplied by the pensionable payroll for the biweekly period; and

(2) the city contribution amount for the applicable fiscal year divided by 26.

(c) With respect to each fiscal year:

(1) the first contribution by the city under this section for the fiscal year shall be made not later than the date payment is made to employees for their first full biweekly pay period beginning on or after the first day of the fiscal year; and

(2) the final contribution by the city under this section for the fiscal year shall be made not later than the date payment is made to employees for the final biweekly pay period of the fiscal year.

(d) In addition to the amounts required under this section, the city may at any time contribute additional amounts to the pension system for deposit in the pension fund by entering into a written agreement with the pension board in accordance with Section 3(n) of this Act.

(e) If, in any given fiscal year, the funded ratio is greater than or equal to 100 percent, the city contribution under this section may no longer include the city contribution amount.

(f) Contributions shall be made under this section by the city to the pension system in order to be credited against any amortization schedule of payments due to the pension system under this Act.

(g) Subsection (f) of this section does not affect the exclusion of contribution amounts under Subsection (e) of this section or changes to an amortization schedule of a liability layer under Section 8B(a)(7)(F), 8C(i)-(j), or 8E(c)(3)-(4) of this Act.

(h) Notwithstanding any other law and except for the pension obligation bond assumed under Section 8C(d)(2) of this Act, the city may not issue a pension obligation bond to fund the city contribution rate under Subsection (a)(1)(A) or (a)(2)(A) of this section or the city contribution amount under Subsection (a)(1)(B) or (a)(2)(B) of this section.

Sec. 8B. RISK SHARING VALUATION STUDIES. (a) The pension system and the city shall separately cause their respective actuaries to prepare a risk sharing valuation study in accordance with this section and actuarial standards of practice. A risk sharing valuation study must:

(1) be dated as of the first day of the fiscal year for which the study is required to be prepared;

(2) be included in the annual valuation study prepared under Section 2B of this Act;

(3) calculate the unfunded actuarial accrued liability of the pension system;

(4) be based on actuarial data provided by the pension system actuary or, if actuarial data is not provided, on estimates of actuarial data;

(5) estimate the city contribution rate and the city contribution amount, taking into account any adjustments required under Section 8E or 8F of this Act for all applicable prior fiscal years;

(6) detail the city contribution rate and the city contribution amount, taking into account any adjustments required under Section 8E or 8F of this Act for all applicable prior fiscal years;

(7) subject to Subsection (g) of this section, be based on the following assumptions and methods that are consistent with actuarial standards of practice:

(A) an ultimate entry age normal actuarial method;

(B) for purposes of determining the actuarial value of assets:

(i) except as provided by Subparagraph (ii) of this paragraph and Section 8E(c)(1) or 8F(c)(1) of this Act, an asset smoothing method recognizing actuarial losses and gains over a five-year period applied prospectively beginning on the year 2017 effective date; and

(ii) for the initial risk sharing valuation study prepared under Section 8C of this Act, a marked-to-market method applied as of June 30, 2016;

(C) closed layered amortization of liability layers to ensure that the amortization period for each layer begins 12 months after the date of the risk sharing valuation study in which the liability layer is first recognized;

(D) each liability layer is assigned an amortization period;

(E) each liability loss layer amortized over a period of 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability loss layer is first recognized, except that the legacy liability must be amortized from July 1, 2016, for a 30-year period beginning July 1, 2017;

(F) the amortization period for each liability gain layer being:

(i) equal to the remaining amortization period on the largest remaining liability loss layer and the two layers must be treated as one layer such that if the payoff year of the liability loss layer is accelerated or extended, the payoff year of the liability gain layer is also accelerated or extended; or

(ii) if there is no liability loss layer, a period of 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability gain layer is first recognized;

(G) liability layers, including the legacy liability, funded according to the level percent of payroll method;

(H) the assumed rate of return, subject to adjustment under Section 8E(c)(5) of this Act or, if Section 8C(g) of this Act applies, adjustment in accordance with a written agreement entered into under Section 3(n) of this Act, except that the assumed rate of return may not exceed seven percent per annum;

(I) the price inflation assumption as of the most recent actuarial experience study, which may be reset by the pension board by plus or minus 50 basis points based on that actuarial experience study;

(J) projected salary increases and payroll growth rate set in consultation with the city's finance director;

(K) payroll for purposes of determining the corridor midpoint, city contribution rate, and city contribution amount must be projected using the annual payroll growth rate assumption, which for purposes of preparing any amortization schedule may not exceed three percent; and

(L) the city contribution rate calculated without inclusion of the legacy liability; and

(8) be revised and restated, if appropriate, not later than:

(A) the date required by a written agreement entered into between the city and the pension board; or

(B) the 30th day after the date required action is taken by the pension board under Section 8E or 8F of this Act to reflect any changes required by either section.

(b) As soon as practicable after the end of a fiscal year, the pension system actuary at the direction of the pension system and the city actuary at the direction of the city shall separately prepare a proposed risk sharing valuation study based on the fiscal year that just ended.

(c) Not later than October 31 following the end of the fiscal year, the pension system shall provide to the city actuary, under a confidentiality agreement with the pension board in which the city actuary agrees to comply with the confidentiality provisions of Section 8G of this Act, the actuarial data described by Subsection (a)(4) of this section.

(d) Not later than the 150th day after the last day of the fiscal year:

(1) the pension system actuary, at the direction of the pension system, shall provide the proposed risk sharing valuation study prepared by the pension system actuary under Subsection (b) of this section to the city actuary; and

(2) the city actuary, at the direction of the city, shall provide the proposed risk sharing valuation study prepared by the city actuary under Subsection (b) of this section to the pension system actuary.

(e) Each actuary described by Subsection (d) of this section may provide copies of the proposed risk sharing valuation studies to the city or the pension system as appropriate.

(f) If, after exchanging proposed risk sharing valuation studies under Subsection (d) of this section, it is found that the difference between the estimated city contribution rate recommended in the proposed risk sharing valuation study prepared by the pension system actuary and the estimated city contribution rate recommended in the proposed risk sharing valuation study prepared by the city actuary for the corresponding fiscal year is:

(1) less than or equal to two percentage points, the estimated city contribution rate recommended by the pension system actuary will be the estimated city contribution rate for purposes of Subsection (a)(5) of this section, and the proposed risk sharing valuation study prepared for the pension system is considered to be the final risk sharing valuation study for the fiscal year for the purposes of this Act;  
or

(2) greater than two percentage points, the city actuary and the pension system actuary shall have 20 business days to reconcile the difference, provided that without the mutual agreement of both actuaries, the difference in the estimated city contribution rate recommended by the city actuary and the estimated city contribution rate recommended by the pension system actuary may not be further increased and:

(A) if, as a result of reconciliation efforts under this subdivision, the difference is reduced to less than or equal to two percentage points:

(i) the estimated city contribution rate proposed under the reconciliation by the pension system actuary will be the estimated city contribution rate for purposes of Subsection (a)(5) of this section; and

(ii) the pension system's risk sharing valuation study is considered to be the final risk sharing valuation study for the fiscal year for the purposes of this Act; or

(B) if, after 20 business days, the pension system actuary and the city actuary are not able to reach a reconciliation that reduces the difference to an amount less than or equal to two percentage points:

(i) the city actuary at the direction of the city and the pension system actuary at the direction of the pension system each shall deliver to the finance director of the city and the executive director of the pension system a final risk sharing valuation study with any agreed-to changes, marked as the final risk sharing valuation study for each actuary; and

(ii) not later than the 90th day before the first day of the next fiscal year, the finance director and the executive director shall execute a joint addendum to the final risk sharing valuation study received under Subparagraph (i) of this paragraph that is a part of the final risk sharing valuation study for the fiscal year for all purposes and reflects the arithmetic average of the estimated city contribution rates for the fiscal year stated by the city actuary and the pension system actuary in the final risk sharing valuation study for purposes of Subsection (a)(5) of this section, and for reporting purposes the pension system may treat the pension system actuary's risk sharing valuation study with the addendum as the final risk sharing valuation study.

(g) The assumptions and methods used and the types of actuarial data and financial information used to prepare the initial risk sharing valuation study under Section 8C of this Act shall be used to prepare each subsequent risk sharing valuation study under this section, unless changed based on the actuarial experience study conducted under Section 8D of this Act.

(h) The actuarial data provided under Subsection (a)(4) of this section may not include the identifying information of individual members.

Sec. 8C. INITIAL RISK SHARING VALUATION STUDIES; CORRIDOR MIDPOINT AND CITY CONTRIBUTION AMOUNTS. (a) The pension system and the city shall separately cause their respective actuaries to prepare an initial risk sharing valuation study that is dated as of July 1, 2016, in accordance with this section. An initial risk sharing valuation study must:

(1) except as otherwise provided by this section, be prepared in accordance with Section 8B of this Act, and for purposes of Section 8B(a)(4) of this Act, be based on actuarial data as of June 30, 2016, or, if actuarial data is not provided, on estimates of actuarial data;

(2) project the corridor midpoint for 31 fiscal years beginning with the fiscal year beginning July 1, 2017; and

(3) subject to Subsections (i) and (j) of this section, include a schedule of city contribution amounts for 30 fiscal years beginning with the fiscal year beginning July 1, 2017.

(b) If the initial risk sharing valuation study has not been prepared consistent with this section before the year 2017 effective date, as soon as practicable after the year 2017 effective date:

(1) the pension system shall provide to the city actuary under a confidentiality agreement the necessary actuarial data used by the pension system actuary to prepare the proposed initial risk sharing valuation study; and

(2) not later than the 30th day after the date the city's actuary receives the actuarial data:

(A) the city actuary, at the direction of the city, shall provide a proposed initial risk sharing valuation study to the pension system actuary; and

(B) the pension system actuary, at the direction of the pension system, shall provide a proposed initial risk sharing valuation study to the city actuary.

(c) If, after exchanging proposed initial risk sharing valuation studies under Subsection (b)(2) of this section, it is determined that the difference between the estimated total city contribution divided by the pensionable payroll for any fiscal year in the proposed initial risk sharing valuation study prepared by the pension system actuary and in the proposed initial risk sharing valuation study prepared by the city actuary is:

(1) less than or equal to two percentage points, the estimated city contribution rate and the estimated city contribution amount for that fiscal year recommended by the pension system actuary will be the estimated city contribution rate and the estimated city contribution amount, as applicable, for purposes of Section 8B(a)(5) of this Act; or

(2) greater than two percentage points, the city actuary and the pension system actuary shall have 20 business days to reconcile the difference and:

(A) if, as a result of reconciliation efforts under this subdivision, the difference in any fiscal year is reduced to less than or equal to two percentage points, the city contribution rate and the city contribution amount recommended by the pension system actuary for that fiscal year will be the estimated city contribution rate and the estimated city contribution amount, as applicable, for purposes of Section 8B(a)(5) of this Act; or

(B) if, after 20 business days, the city actuary and the pension system actuary are not able to reach a reconciliation that reduces the difference to an amount less than or equal to two percentage points for any fiscal year:

(i) the city actuary at the direction of the city and the pension system actuary at the direction of the pension system each shall deliver to the finance director of the city and the executive director of the pension system a final initial risk sharing valuation study with any agreed-to changes, marked as the final initial risk sharing valuation study for each actuary; and

(ii) the finance director and the executive director shall execute a joint addendum to the final initial risk sharing valuation study that is a part of each final initial risk sharing valuation study for all purposes and that reflects the arithmetic average of the estimated city contribution rate and the estimated city contribution amount for each fiscal year in which the difference was greater than two percentage points for purposes of Section 8B(a)(5) of this Act, and for reporting purposes the pension system may treat the pension system actuary's initial risk sharing valuation study with the addendum as the final initial risk sharing valuation study.

(d) In preparing the initial risk sharing valuation study, the city actuary and pension system actuary shall:

(1) adjust the actuarial value of assets to be equal to the market value of assets as of July 1, 2016;

(2) assume the issuance of planned pension obligation bonds by December 31, 2017, in accordance with Subsection (j)(2) of this section; and

(3) assume benefit and contribution changes under this Act as of the year 2017 effective date.

(e) If the city actuary does not prepare an initial risk sharing valuation study for purposes of this section, the pension system actuary's initial risk sharing valuation study will be used as the final risk sharing valuation study for purposes of this Act unless the city did not prepare a proposed initial risk sharing valuation study because the pension system actuary did not provide the necessary actuarial data in a timely manner. If the city did not prepare a proposed initial risk sharing valuation study because the pension system actuary did not provide the necessary actuarial data in a timely manner, the city actuary shall have 60 days to prepare the proposed initial risk sharing valuation study on receipt of the necessary information.

(f) If the pension system actuary does not prepare a proposed initial risk sharing valuation study for purposes of this section, the proposed initial risk sharing valuation study prepared by the city actuary will be the final risk sharing valuation study for purposes of this Act.

(g) The city and the pension board may agree on a written transition plan for resetting the corridor midpoint:

(1) if at any time the funded ratio is equal to or greater than 100 percent; or

(2) for any fiscal year after the payoff year of the legacy liability.

(h) If the city and the pension board have not entered into an agreement described by Subsection (g) of this section in a given fiscal year, the corridor midpoint will be the corridor midpoint determined for the 31st fiscal year in the initial risk sharing valuation study prepared in accordance with this section.

(i) If the city makes a contribution to the pension system of at least \$5 million more than the amount that would be required by Section 8A(a) of this Act, a liability gain layer with the same remaining amortization period as the legacy liability is created. In each subsequent risk sharing valuation study until the end of that amortization period, the city contribution amount must be decreased by the amortized amount in each fiscal year covered by the liability gain layer.

(j) Notwithstanding any other provision of this Act, including Section 8H of this Act:

(1) if the city fails to deliver the proceeds of pension obligation bonds totaling \$250 million on or before March 31, 2018, the pension board shall have 30 days from March 31, 2018, to rescind, prospectively, any or all benefit changes made effective under S.B. No. 2190, Acts of the 85th Legislature, Regular Session, 2017, as of the year 2017 effective date, or to reestablish the deadline for the delivery of pension obligation bond proceeds, reserving the right to rescind the benefit changes authorized by this subdivision if the bond proceeds are not delivered by the reestablished deadline; and

(2) subject to Subsection (k) of this section, if the pension board rescinds benefit changes under Subdivision (1) of this subsection or pension obligation bond proceeds are not delivered on or before December 31, 2017, the initial risk sharing valuation study shall be prepared again and restated without assuming the delivery of the pension obligation bond proceeds, the later delivery of pension obligation bond proceeds, or the rescinded benefit changes, as applicable, including a reamortization of the city contribution amount for the amortization period remaining for the legacy

liability, and the resulting city contribution rate and city contribution amount will become effective in the fiscal year following the completion of the restated initial risk sharing valuation study.

(k) The restated initial risk sharing valuation study required under Subsection (j)(2) of this section must be completed at least 30 days before the start of the fiscal year:

(1) ending June 30, 2019, if the pension board does not reestablish the deadline under Subsection (j)(1) of this section; or

(2) immediately following the reestablished deadline, if the pension board reestablishes the deadline under Subsection (j)(1) of this section and the city fails to deliver the pension obligation bond proceeds described by Subsection (j)(1) of this section by the reestablished deadline.

Sec. 8D. ACTUARIAL EXPERIENCE STUDIES. (a) At least once every four years, the pension system actuary, at the direction of the pension system, shall conduct an actuarial experience study in accordance with actuarial standards of practice. The actuarial experience study required by this subsection must be completed not later than September 30 of the year in which the study is required to be conducted.

(b) Except as otherwise expressly provided by Sections 8B(a)(7)(A)-(I) of this Act, actuarial assumptions and methods used in the preparation of a risk sharing valuation study, other than the initial risk sharing valuation study, shall be based on the results of the most recent actuarial experience study.

(c) Not later than the 180th day before the date the pension board may consider adopting any assumptions and methods for purposes of Section 8B of this Act, the pension system shall provide the city actuary with a substantially final draft of the pension system's actuarial experience study, including:

(1) all assumptions and methods recommended by the pension system actuary; and

(2) summaries of the reconciled actuarial data used in creation of the actuarial experience study.

(d) Not later than the 60th day after the date the city receives the final draft of the pension system's actuarial experience study under Subsection (c) of this section, the city actuary and pension system actuary may communicate concerning the assumptions and methods used in the actuarial experience study. During the period prescribed by this subsection, the pension system actuary may modify the recommended assumptions in the draft actuarial experience study to reflect any changes to assumptions and methods to which the pension system actuary and the city actuary agree.

(e) At the city actuary's written request, the pension system shall provide additional actuarial data used by the pension system actuary to prepare the draft actuarial experience study, provided that confidential data may only be provided subject to a confidentiality agreement entered into between the pension system and the city actuary.

(f) The city actuary, at the direction of the city, shall provide in writing to the pension system actuary and the pension system:

(1) any assumptions and methods recommended by the city actuary that differ from the assumptions and methods recommended by the pension system actuary; and

(2) the city actuary's rationale for each method or assumption the actuary recommends and determines to be consistent with standards adopted by the Actuarial Standards Board.

(g) Not later than the 30th day after the date the pension system actuary receives the city actuary's written recommended assumptions and methods and rationale under Subsection (f) of this section, the pension system shall provide a written response to the city identifying any assumption or method recommended by the city actuary that the pension system does not accept. If any assumption or method is not accepted, the pension system shall recommend to the city the names of three independent actuaries for purposes of this section.

(h) An actuary may only be recommended, selected, or engaged by the pension system as an independent actuary under this section if the person:

(1) is not already engaged by the city, the pension system, or any other pension system or fund authorized under Article 6243e.2(1) or 6243g-4, Revised Statutes, to provide actuarial services to the city, the pension system, or another pension system or fund referenced in this subdivision;

(2) is a member of the American Academy of Actuaries; and

(3) has at least five years of experience as an actuary working with one or more public retirement systems with assets in excess of \$1 billion.

(i) Not later than the 20th day after the date the city receives the list of three independent actuaries under Subsection (g) of this section, the city shall identify and the pension system shall hire one of the listed independent actuaries on terms acceptable to the city and the pension system to perform a scope of work acceptable to the city and the pension system. The city and the pension system each shall pay 50 percent of the cost of the independent actuary engaged under this subsection. The city shall be provided the opportunity to participate in any communications between the independent actuary and the pension system concerning the engagement, engagement terms, or performance of the terms of the engagement.

(j) The independent actuary engaged under Subsection (i) of this section shall receive on request from the city or the pension system:

(1) the pension system's draft actuarial experience study, including all assumptions and methods recommended by the pension system actuary;

(2) summaries of the reconciled actuarial data used to prepare the draft actuarial experience study;

(3) the city actuary's specific recommended assumptions and methods together with the city actuary's written rationale for each recommendation;

(4) the pension system actuary's written rationale for its recommendations;  
and

(5) if requested by the independent actuary and subject to a confidentiality agreement between the pension system and the independent actuary, additional confidential actuarial data.

(k) Not later than the 30th day after the date the independent actuary receives all the requested information under Subsection (j) of this section, the independent actuary shall advise the pension system and the city whether it agrees with the assumption or method recommended by the city actuary or the corresponding method or assumption recommended by the pension system actuary, together with the independent actuary's rationale for making the determination. During the period prescribed by this subsection, the independent actuary may discuss recommendations in simultaneous consultation with the pension system actuary and the city actuary.

(l) The pension system and the city may not seek any information from any prospective independent actuary about possible outcomes of the independent actuary's review.

(m) If an independent actuary has questions or concerns regarding an engagement entered into under this section, the independent actuary shall simultaneously consult with both the city actuary and the pension system actuary regarding the questions or concerns. This subsection does not limit the pension system's authorization to take appropriate steps to complete the engagement of the independent actuary on terms acceptable to both the pension system and the city or to enter into a confidentiality agreement with the independent actuary, if needed.

(n) If the pension board does not adopt an assumption or method recommended by the city actuary to which the independent actuary agrees, or recommended by the pension system actuary, the city actuary is authorized to use that recommended assumption or method in connection with preparation of a subsequent risk sharing valuation study under Section 8B of this Act until the risk sharing valuation study following the next actuarial experience study is prepared.

Sec. 8E. CITY CONTRIBUTION RATE WHEN ESTIMATED CITY CONTRIBUTION RATE LOWER THAN CORRIDOR MIDPOINT; AUTHORIZATION FOR CERTAIN ADJUSTMENTS. (a) This section governs the determination of the city contribution rate applicable in a fiscal year if the estimated city contribution rate is lower than the corridor midpoint.

(b) If the funded ratio is:

(1) less than 90 percent, the city contribution rate for the fiscal year equals the corridor midpoint; or

(2) equal to or greater than 90 percent and the city contribution rate is:

(A) equal to or greater than the minimum contribution rate, the estimated city contribution rate is the city contribution rate for the fiscal year; or

(B) except as provided by Subsection (e) of this section, less than the minimum contribution rate for the corresponding fiscal year, the city contribution rate for the fiscal year equals the minimum contribution rate achieved in accordance with Subsection (c) of this section.

(c) For purposes of Subsection (b)(2)(B) of this section, the following adjustments shall be applied sequentially to the extent required to increase the estimated city contribution rate to equal the minimum contribution rate:

(1) first, adjust the actuarial value of assets equal to the current market value of assets, if making the adjustment causes the city contribution rate to increase;

(2) second, under a written agreement between the city and the pension board under Section 3(n) of this Act entered into not later than the 30th day before the first day of the next fiscal year, prospectively restore all or part of any benefit reductions or reduce increased employee contributions, in each case made after the year 2017 effective date;

(3) third, accelerate the payoff year of the legacy liability by offsetting the remaining legacy liability by the amount of the new liability loss layer, provided that during the accelerated period the city will continue to pay the city contribution amount as scheduled in the initial risk sharing valuation study, subject to Section 8C(i) or (j) of this Act;

(4) fourth, accelerate the payoff year of existing liability loss layers, excluding the legacy liability, by accelerating the oldest liability loss layers first, to an amortization period of not less than 20 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability loss layer is first recognized; and

(5) fifth, under a written agreement between the city and the pension board under Section 3(n) of this Act entered into not later than the 30th day before the first day of the next fiscal year, the city and the pension board may agree to reduce the assumed rate of return.

(d) If the funded ratio is:

(1) equal to or greater than 100 percent:

(A) all existing liability layers, including the legacy liability, are considered fully amortized and paid;

(B) the city contribution amount may no longer be included in the city contribution under Section 8A of this Act; and

(C) the city and the pension system may mutually agree to change assumptions in a written agreement entered into between the city and the pension board under Section 3(n) of this Act; and

(2) greater than 100 percent in a written agreement between the city and the pension system entered into under Section 3(n) of this Act, the pension system may reduce member contributions or increase pension benefits if as a result of the action:

(A) the funded ratio is not less than 100 percent; and

(B) the city contribution rate is not more than the minimum contribution rate.

(e) Except as provided by Subsection (f) of this section, if an agreement under Subsection (d) of this section is not reached on or before the 30th day before the first day of the next fiscal year, before the first day of the next fiscal year, the pension board shall reduce member contributions and implement or increase cost-of-living adjustments, but only to the extent that the city contribution rate is set at or below the minimum contribution rate and the funded ratio is not less than 100 percent.

(f) If any member contribution reduction or benefit increase under Subsection (e) of this section has occurred within the previous three fiscal years, the pension board may not make additional adjustments to benefits, and the city contribution rate must be set to equal the minimum contribution rate.

Sec. 8F. CITY CONTRIBUTION RATE WHEN ESTIMATED CITY CONTRIBUTION RATE EQUAL TO OR GREATER THAN CORRIDOR MIDPOINT; AUTHORIZATION FOR CERTAIN ADJUSTMENTS. (a) This section governs the determination of the city contribution rate in a fiscal year when the estimated city contribution rate is equal to or greater than the corridor midpoint.

(b) If the estimated city contribution rate is:

(1) less than or equal to the maximum contribution rate for the corresponding fiscal year, the estimated city contribution rate is the city contribution rate; or

(2) except as provided by Subsection (d) or (f) of this section, greater than the maximum contribution rate for the corresponding fiscal year, the city contribution rate equals the corridor midpoint achieved in accordance with Subsection (c) of this section.

(c) For purposes of Subsection (b)(2) of this section, the following adjustments shall be applied sequentially to the extent required to decrease the estimated city contribution rate to equal the corridor midpoint:

(1) first, adjust the actuarial value of assets to the current market value of assets, if making the adjustment causes the city contribution rate to decrease;

(2) second, if the payoff year of the legacy liability was accelerated under Section 8E(c) of this Act:

(A) extend the payoff year of the legacy liability by increasing the legacy liability by the amount of the new liability gain layer to a maximum amount; and

(B) during the extended period provided by Paragraph (A) of this subdivision, the city shall continue to pay the city contribution amount for the extended period in accordance with the schedule included in the initial risk sharing valuation study, subject to Section 8C(i) or (j) of this Act; and

(3) third, if the payoff year of a liability loss layer other than the legacy liability was previously accelerated under Section 8E(c) of this Act, extend the payoff year of existing liability loss layers, excluding the legacy liability, by extending the most recent loss layers first, to a payoff year not later than 30 years from the first day of the fiscal year beginning 12 months after the date of the risk sharing valuation study in which the liability loss layer is first recognized.

(d) If the city contribution rate after adjustment under Subsection (c) of this section is greater than the third quarter line rate, the city contribution rate equals the third quarter line rate. To the extent necessary to comply with this subsection, the city and the pension board shall enter into a written agreement under Section 3(n) of this Act to increase member contributions and make other benefit or plan changes not otherwise prohibited by applicable federal law or regulations.

(e) Gains resulting from adjustments made as the result of a written agreement between the city and the pension board under Subsection (d) of this section may not be used as a direct offset against the city contribution amount in any fiscal year.

(f) If an agreement under Subsection (d) of this section is not reached on or before the 30th day before the first day of the next fiscal year, before the start of the next fiscal year to which the city contribution rate would apply, the pension board, to the extent necessary to set the city contribution rate equal to the third quarter line rate, shall:

(1) increase member contributions; and

(2) decrease cost-of-living adjustments.

(g) If the city contribution rate remains greater than the corridor midpoint in the third fiscal year after adjustments are made in accordance with an agreement under Subsection (d) of this section, in that fiscal year the city contribution rate equals the corridor midpoint achieved in accordance with Subsection (h) of this section.

(h) The city contribution rate must be set at the corridor midpoint under Subsection (g) of this section by:

(1) in the risk sharing valuation study for the third fiscal year described by Subsection (g) of this section, adjusting the actuarial value of assets to equal the current market value of assets, if making the adjustment causes the city contribution rate to decrease; and

(2) under a written agreement entered into between the city and the pension board under Section 3(n) of this Act:

(A) increasing member contributions; and

(B) making any other benefit or plan changes not otherwise prohibited by applicable federal law or regulations.

(i) If an agreement under Subsection (h)(2) of this section is not reached on or before the 30th day before the first day of the next fiscal year, before the start of the next fiscal year, the pension board, to the extent necessary to set the city contribution rate equal to the corridor midpoint, shall:

(1) increase member contributions; and

(2) decrease cost-of-living adjustments.

Sec. 8G. CONFIDENTIALITY. (a) The information, data, and document exchanges under Sections 8A through 8F of this Act have all the protections afforded by applicable law and are expressly exempt from the disclosure requirements under Chapter 552, Government Code, except as may be agreed to by the city and pension system in a written agreement under Section 3(n) of this Act.

(b) Subsection (a) of this section does not apply to:

(1) a proposed risk sharing valuation study prepared by the pension system actuary and provided to the city actuary or prepared by the city actuary and provided to the pension system actuary under Section 8B(d) or 8C(b)(2) of this Act; or

(2) a final risk sharing valuation study prepared under Section 8B or 8C of this Act.

(c) A risk sharing valuation study prepared by either the city actuary or the pension system actuary under Sections 8A through 8F of this Act may not:

(1) include information in a form that includes identifiable information relating to a specific individual; or

(2) provide confidential or private information regarding specific individuals or be grouped in a manner that allows confidential or private information regarding a specific individual to be discerned.

Sec. 8H. UNILATERAL DECISIONS AND ACTIONS PROHIBITED. No unilateral decision or action by the pension board is binding on the city and no unilateral decision or action by the city is binding on the pension system with respect to the application of Sections 8A through 8F of this Act unless expressly provided by a provision of those sections. Nothing in this section is intended to limit the powers or authority of the pension board.

Sec. 8I. STATE PENSION REVIEW BOARD; REPORT. (a) After preparing a final risk sharing valuation study under Section 8B or 8C of this Act, the pension system and the city shall jointly submit a copy of the study or studies, as appropriate, to the State Pension Review Board for a determination that the pension system and city are in compliance with this Act.

(b) Not later than the 30th day after the date an action is taken under Section 8E or 8F of this Act, the pension system shall submit a report to the State Pension Review Board regarding any actions taken under those sections.

(c) The State Pension Review Board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the legislative committees having principal jurisdiction over legislation governing public retirement systems if the State Pension Review Board determines the pension system or the city is not in compliance with Sections 8A through 8H of this Act.

SECTION 3.12. Section 9(c), Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) If a member dies and there are no eligible survivors to receive the allowance provided for in Section 14 of this Act, the member's spouse [~~beneficiary~~] or, if there is no spouse [~~beneficiary~~], the member's estate shall receive the refund amount.

SECTION 3.13. Section 10, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended by amending Subsections (b), (d), (e), (g), and (h) and adding Subsections (c-1), (d-1), and (e-1) to read as follows:

(b) A group A or group B member of the pension system who terminates employment is eligible for a normal retirement pension beginning on the member's effective retirement date after the date the member completes at least five years of credited service and attains either:

(1) 62 years of age; or

(2) a combination of years of age and years of credited service, including parts of years, the sum of which equals or is greater than the number:

(A) 75, provided the member is at least 50 years of age; or

(B) 70, provided the member attained a combination of years of age and years of credited service, including parts of years, the sum of which equals or is greater than the number 68 before January 1, 2005.

(c-1) A group D member who terminates employment is eligible for a normal retirement pension beginning on the member's effective retirement date after the date the member completes at least five years of credited service and attains 62 years of age.

(d) Subject to Section 17 of this Act, the [~~The~~] amount of the monthly normal retirement pension payable to an eligible:

(1) ~~retired~~ group A or group B member who retires before January 1, 2005, shall be determined under the law in effect on the member's last day of credited service;

(2) group A member who retires on or after January 1, 2005, is equal to the sum of:

(A) the member's average monthly salary multiplied by the percentage rate accrued under the law in effect on December 31, 2004, for each year of the member's years of credited service in group A that is earned before January 1, 2005;

(B) the member's average monthly salary multiplied by 2.5 ~~[3-1/4]~~ percent for each year of the member's years of credited service in group A during the member's first 20 ~~[40]~~ years of service that is earned on or after January 1, 2005; ~~[; 3-1/2 percent for each of the member's years of credited service in group A during the member's next 10 years of service,] and~~

(C) the member's average monthly salary multiplied by 3.25 ~~[4-1/4]~~ percent for each year of credited service of the member in group A during the member's years of service in excess of the 20 years described under Paragraph (B) of this subdivision that is earned on or after January 1, 2005;

(3) group B member who retires on or after January 1, 2005, is equal to the sum of:

(A) the member's average monthly salary multiplied by the percentage rate accrued under the law in effect on December 31, 2004, for each year of the member's years of credited service in group B that is earned before January 1, 2005;

(B) the member's average monthly salary multiplied by 1.75 percent for each year of the member's years of credited service in group B during the member's first 10 years of service that is earned on or after January 1, 2005;

(C) the member's average monthly salary multiplied by two percent for each of the member's years of credited service in group B in excess of the 10 years described under Paragraph (B) of this subdivision that is earned on or after January 1, 2005; and

(D) the member's average monthly salary multiplied by 2.5 percent for each year of credited service of the member in group B during the member's years of service in excess of 20 years that is earned on or after January 1, 2005; or

(4) group D member who retires on or after January 1, 2008, is equal to the sum of:

(A) the member's average monthly salary multiplied by 1.8 percent for each year of the member's years of credited service during the member's first 25 years of service; and

(B) the member's average monthly salary multiplied by 1 percent for each year of credited service of the member in group D during the member's years of service in excess of 25 years.

(d-1) For purposes of Subsection (d) of this section, service credit is rounded to the nearest one-twelfth of a year ~~[For purposes of this subsection, service credit is rounded to the nearest one-twelfth of a year. The normal retirement pension of a retired group A member may not exceed 90 percent of the member's average monthly salary].~~

(e) A group D member who terminates employment with the city or the pension system may elect to receive an early retirement pension payable as a reduced benefit if the member has attained:

- (1) at least 10 years of credited service and is at least 55 years of age; or
- (2) five years of credited service and a combination of years of age and years of credited service, including parts of years, the sum of which equals or is greater than the number 75.

(e-1) The amount of the early retirement pension payable to a retired group D member under Subsection (e) of this section shall be equal to the monthly normal retirement pension reduced by 0.25 percent for each month the member is less than 62 years of age at retirement [monthly normal retirement pension payable to an eligible retired group B member equals the member's average monthly salary multiplied by 1 3/4 percent for each year of the member's years of credited service in group B during the member's first 10 years of service, 2 percent for each of the member's years of credited service in group B during the member's next 10 years of service, and 2 3/4 percent for each year of credited service of the member in group B during the member's years of service in excess of 20 years. For purposes of this subsection, service credit is rounded to the nearest one twelfth of a year. The normal retirement pension of a retired group B member may not exceed 90 percent of the member's average monthly salary].

(g) Notwithstanding any other provision of this Act, the total normal retirement pension of a retired member with credited service in group A, group B, [~~or~~] group C<sub>2</sub> or group D may not exceed 90 percent of the member's average monthly salary.

(h) On or after February 1, 2018, and for [~~For~~] future payments only, pension benefits for all group A retirees and group B retirees, and for all group D retirees who terminated employment on or after the year 2017 effective date with at least five years of credited service, and survivor benefits for [~~all retirees and~~] eligible survivors of a former member of group A or group B, or of a former member of group D who terminated employment on or after the year 2017 effective date with at least five years of credited service, shall be increased annually by the cost-of-living adjustment percentage [~~four percent~~], not compounded, for all such eligible persons receiving a pension or survivor benefit as of January 1 of the year in which the increase is made.

SECTION 3.14. Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended by adding Section 10A to read as follows:

Sec. 10A. GROUP D MEMBER HYBRID COMPONENT. (a) On and after January 1, 2018, in addition to the group D member contributions under Section 8 of this Act, each group D member shall contribute one percent of the member's salary for each biweekly pay period beginning with the member's first full biweekly pay period after the later of January 1, 2018, or the group D member's first date of employment. The contribution required by this subsection:

(1) shall be picked up and paid in the same manner and at the same time as group D member contributions required under Section 8(a)(3) of this Act, subject to applicable rules;

(2) is separate from and in addition to the group D member contribution under Section 8(a)(3) of this Act; and

(3) is not subject to reduction or increase under Sections 8A through 8F of this Act or a refund under Section 17 of this Act.

(b) For each biweekly pay period of a group D member's service for which the group D member makes the contribution required under Subsection (a) of this section, the following amounts shall be credited to a notional account, known as a cash balance account, for the group D member:

(1) the amount of the contributions paid under Subsection (a) of this section for that biweekly pay period; and

(2) interest on the balance of the group D member's cash balance account determined by multiplying:

(A) an annual rate that is one-half the pension system's five-year investment return based on a rolling five-fiscal-year basis and net of investment expenses, with a minimum annual rate of 2.5 percent and a maximum annual rate of 7.5 percent, and divided by 26; and

(B) the amount credited to the group D member's cash balance account as of the end of the biweekly pay period.

(c) The pension system may not pay interest on amounts credited to a cash balance account but not received by the pension system under Subsection (b) of this section.

(d) On separation from service, a group D member is eligible to receive only a distribution of the contributions credited to that group D member's cash balance account, without interest, if the group D member has attained less than one year of service while contributing to the cash balance account. If a group D member attains at least one year of service while contributing to the cash balance account, the group D member is fully vested in the accrued benefit represented by that group D member's cash balance account, including interest.

(e) In a manner and form prescribed by the pension board, a group D member who terminates employment is eligible to elect to receive the group D member's cash balance account benefit in a lump-sum payment, in substantially equal periodic payments, in a partial lump-sum payment followed by substantially equal periodic payments, or in partial payments from the group D member's cash balance account.

(f) Contributions may not be made to a group D member's cash balance account for a period that occurs after the date the group D member terminates employment, except that interest at a rate that is not greater than the rate under Subsection (b)(2) of this section, as determined by the pension board, may be credited based on the former group D member's undistributed cash balance account after the date the group D member terminates employment.

(g) On the death of a group D member or former group D member before the full distribution of the member's cash balance account, the deceased member's cash balance account shall be payable in a single lump-sum payment to:

(1) the deceased member's surviving spouse;

(2) if there is no surviving spouse, each designated beneficiary of the deceased member, designated in the manner and on a form prescribed by the pension board; or

(3) if there is no designated beneficiary, the deceased member's estate.

(h) The lump-sum payment described by Subsection (g) of this section shall be made within a reasonable time after the pension board has determined that the individual or estate is eligible for the distribution.

(i) Subject to the other provisions of this section, the pension board may adopt rules necessary to implement this section, including rules regarding the payment of the cash balance account and limitations on the timing and frequency of payments. All distributions and changes in the form of distribution must be made in a manner and at a time that complies with the Internal Revenue Code of 1986.

SECTION 3.15. Section 11, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11. OPTION-ELIGIBLE PARTICIPANTS [~~GROUP B RETIREMENT OPTIONS~~]. (a) In this section, "J&S Annuity" means payment of a normal retirement pension or early retirement pension under one of the options provided by Subsection (b) of this section.

(a-1) For purposes of this section, an option-eligible participant is:

(1) a former group A or group B member who terminates employment with the city or the pension system on or after June 30, 2011, and who is eligible to receive a normal retirement pension, provided the member was not married as of the date of the member's termination of employment;

(2) a former group B member who terminated employment with the city or the predecessor system before September 1, 1997, and who is eligible to receive a normal retirement pension; or

(3) a former group D member who terminated employment with the city or the pension system and who is eligible to receive a normal retirement pension or an early retirement pension.

(a-2) The pension board, in its sole discretion, shall make determinations regarding an individual's status as an option-eligible participant.

(a-3) Before the date an option-eligible participant commences receipt of a benefit, that option-eligible participant [~~A group B member who terminated employment with the city or the predecessor system before September 1, 1997,~~] must elect, in a manner and at a time determined by the pension board, [~~before the member's effective retirement date~~] whether to receive [~~have~~] the participant's [~~member's~~] normal retirement pension or early retirement pension, as applicable, or to have the option-eligible participant's normal retirement pension or early retirement pension, as applicable, paid under one of the options provided by Subsection (b) of this section. The election may be revoked, in a manner and at a time established by the pension board, not later than the 60th day before the date the participant commences receipt of a benefit [~~member's effective retirement date~~].

(b) The normal retirement pension or early retirement pension may be one of the following actuarially equivalent amounts:

(1) option 1: a reduced pension payable to the participant [~~member~~], then on the participant's [~~member's~~] death one-half of the amount of that reduced pension is payable to the participant's [~~member's~~] designated survivor, for life;

(2) option 2: a reduced pension payable to the participant [member], then on the participant's [member's] death that same reduced pension is payable to the participant's [member's] designated survivor, for life; and

(3) option 3: a reduced pension payable to the participant [member], and if the participant [member] dies within 10 years, the pension is paid to the participant's [member's] designated survivor for the remainder of the 10-year period beginning on the participant's benefit commencement [member's effective retirement] date.

(c) If an option-eligible participant [a former group B member] who has made the election provided by Subsection (b) of this section dies after terminating employment with at least five years of credited service but before attaining the age required to begin receiving a normal or early retirement pension, the person's designated survivor is eligible for the J&S Annuity [benefits] provided by the option selected by the option-eligible participant [former member] at the time of separation from service. The benefits first become payable to an eligible designated survivor on the date the option-eligible participant [former member] would have become eligible to begin receiving a pension. If the designated survivor elects for earlier payment, in a time and manner determined by the pension board, the actuarial equivalent of that amount shall be payable at that earlier date.

(d) A survivor benefit under Subsection (c) of this section or a J&S Annuity is not payable if:

(1) except as provided by Subsection (e) of this section, an option-eligible participant [If a former group B member under Subsection (a) of this section] does not elect one of the J&S Annuity options under Subsection (b) of this section and dies before retirement has commenced;

(2) an option-eligible participant elects a normal retirement pension or early retirement pension and dies before retirement has commenced; or

(3) an option-eligible participant dies after retirement has commenced and that option-eligible participant:

(A) elects a normal retirement pension or early retirement pension;

(B) did not make a valid election under Subsection (b) of this section;

or

(C) made an election that is void[~~, a survivor benefit is not payable~~].

(e) An option-eligible participant described by Subsection (a-1)(3) of this section who did not elect one of the J&S Annuity options under Subsection (b) of this section is considered to have elected a J&S Annuity option under Subsection (b)(1) of this section and to have designated the participant's surviving spouse as the optional annuitant if the participant:

(1) was not in service with the city or the pension system at the time of the participant's death;

(2) is survived by a surviving spouse; and

(3) dies before the participant's retirement has commenced.

(f) If the option-eligible participant described by Subsection (e) of this section has no surviving spouse, a survivor benefit or J&S Annuity is not payable. If a J&S Annuity is paid under Subsection (e) of this section, a survivor benefit is not payable under this subsection or under Section 14 of this Act.

(g) If Subsection (d) of this section would otherwise apply to prohibit the payment of a survivor benefit or J&S Annuity, but there is one or more dependent children of the deceased option-eligible participant, the provisions of Section 14 of this Act control the payment of survivor benefits to the dependent child or children. The pension system may not pay both a J&S Annuity under this section and a survivor benefit under Section 14 of this Act with respect to any option-eligible participant. If a J&S Annuity is paid under Subsection (e) of this section, a survivor benefit is not payable.

(h) If an option-eligible participant has previously elected a J&S Annuity for a previous period of service, no benefits have been paid under that previous election, and the option-eligible participant terminates employment on or after January 1, 2012, the previous election is void and the option-eligible participant shall make an election under Subsection (b) of this section to apply to all periods of service.

(i) If a former group B member with service before September 1, 1997, was rehired in a covered position and converted the group B service covered by a J&S Annuity to group A service, and that member terminates employment on or after January 1, 2012, and is not an option-eligible participant at the time of the member's subsequent termination, the previous election is void and survivor benefits for an eligible survivor, if any, are payable as provided by Section 14 of this Act, provided benefits were not paid under the previous election.

(j) If an option-eligible participant who elects a J&S Annuity under this section designates the participant's spouse as a designated survivor and the marriage is later dissolved by divorce, annulment, or a declaration that the marriage is void before the participant's retirement, the designation is void unless the participant reaffirms the designation after the marriage was dissolved.

(k) A J&S Annuity payable to a designated survivor of a retired option-eligible participant is effective on the first day of the month following the month of the option-eligible participant's death and ceases on the last day of the month of the designated survivor's death or on the last day of the month in which the survivor otherwise ceases to be eligible to receive a J&S Annuity.

SECTION 3.16. Section 12(a)(5), Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended to read as follows:

(5) "DROP entry date" means the date a member ceases to earn service credit and begins earning credit for the member's DROP account, which is the later of the date the member is eligible to participate in the DROP, the date requested by the member, or October 1, 1997, as approved by the pension board. The DROP entry date is the first day of a month and is determined by the normal retirement eligibility requirements of this Act or of Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), as applicable, in effect on the requested DROP entry date. A member who enters DROP on or after January 1, 2005, may not have a DROP entry date that occurs before the date the pension system receives the member's request to participate in DROP.

SECTION 3.17. Section 12, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended by adding Subsections (b-1), (d-1), (o-1), (r), (s), and (t) and amending Subsections (d), (f), (g), (h), (j), (k), (m), (o), and (p) to read as follows:

(b-1) Notwithstanding Subsection (b) of this section, for DROP participation beginning on or after January 1, 2005, a member must meet the normal retirement eligibility requirements under Section 10(b) or (c) of this Act to be eligible to elect to participate in DROP. This subsection does not apply to a member who:

(1) met the eligibility requirements under Section 10(b) of this Act in effect before January 1, 2005; or

(2) before January 1, 2005, had at least five years of credited service and a combination of years of age and years of credited service, including parts of years, the sum of which equaled or was greater than 68.

(d) Credited service and normal retirement benefits cease to accrue on the day preceding the member's DROP entry date. The period of a member's DROP participation, unless revoked as provided by Subsection (j) of this section, begins on the DROP participant's DROP entry date and ends on the date of the DROP participant's last day of active service with the city or the pension system. On the first day of the month following the month in which the pension board approves the member's DROP election, the DROP election becomes effective and the pension board shall establish a DROP account for the DROP participant. For each month during the period of DROP participation before a DROP participant's termination of employment, the following amounts shall be credited to the DROP participant's DROP account, including prorated amounts for partial months of service:

(1) an amount equal to what would have been the DROP participant's monthly normal retirement benefit if the DROP participant had retired on the DROP participant's DROP entry date, except that the monthly amount shall be computed based on the DROP participant's credited service and average monthly salary as of the DROP entry date and the benefit accrual rates and maximum allowable benefit applicable on the DROP election date, with the cost-of-living adjustments payable under Subsection (s) of this section, if any, that would apply if the DROP participant had retired on the DROP participant's DROP entry date; and

(2) subject to Subsection (d-1) of this section, [for a group A member, the member's contributions to the pension fund required under Section 8 of this Act during the member's participation in the DROP; and

~~[(3)]~~ interest on the DROP participant's DROP account balance computed at a rate determined by the pension board and compounded at intervals designated by the pension board, but at least once in each 13-month period.

(d-1) Beginning January 1, 2018, the pension board shall establish the interest rate applicable under Subsection (d)(2) of this section as of January 1 of each year at a rate:

(1) except as provided by Subdivision (2) of this subsection, equal to half the pension system's five-year investment return based on a rolling five-fiscal-year basis and net of investment expenses; and

(2) that may not be less than 2.5 percent or more than 7.5 percent.

(f) The period for credits to a DROP participant's DROP account includes each month beginning with the DROP participant's DROP entry date through the date the DROP participant terminates employment with the city or the pension system. Credits may not be made to a DROP participant's DROP account for a period that occurs after the date the DROP participant terminates employment, except that interest at a rate determined by the pension board may be paid on the person's undistributed DROP account balance after the date the person terminates employment. A DROP participant must pay required contributions to the pension system for all time in DROP that would otherwise constitute service in order to receive allowable credits to the DROP participant's DROP account.

(g) A DROP participant who terminates employment is eligible to elect to receive the DROP participant's DROP benefit in a lump sum, in substantially equal periodic payments, ~~or~~ in a partial lump sum followed by substantially equal periodic payments, or in partial payments from the participant's DROP account, in a manner and form determined by the pension board. The pension board may establish procedures concerning partial payments under this subsection, including limitations on the timing and frequency of those payments. A participant who elects partial payments may elect to receive the participant's entire remaining DROP account balance in a single lump-sum payment. The pension board shall determine a reasonable time for lump-sum and periodic payments of the DROP benefit. ~~[An election concerning single lump sum or partial payments as provided by this subsection must satisfy the requirements of Section 401(a)(9), Internal Revenue Code of 1986, as amended.]~~ All distributions and changes in the form of distribution must be made in a manner and at a time that complies with that provision of the Internal Revenue Code of 1986, as amended.

(h) If a DROP participant dies before the full distribution of the DROP participant's DROP account balance, the undistributed DROP account balance shall be distributed to the DROP participant's surviving spouse, if any, in a lump-sum payment within a reasonable time after the pension board has determined that the surviving spouse is eligible for the distribution. If there is no surviving spouse, each beneficiary of the DROP participant [participant's beneficiary], as designated in the manner and on a form established by the pension board, is eligible to receive the beneficiary's applicable portion of the deceased DROP participant's undistributed DROP account balance in a lump-sum payment within a reasonable time after the pension board has determined that the beneficiary is eligible for the distribution. If no beneficiary is designated, the undistributed DROP account balance shall be distributed to the deceased participant's ~~[member's]~~ estate.

(j) An election to participate in the DROP is irrevocable, except that:

(1) if a DROP participant is approved for a service disability pension, the DROP participant's DROP election is automatically revoked; and

(2) if a DROP participant dies, the surviving spouse, if any, or the beneficiary, if any, may elect to revoke the DROP participant's DROP election, at a time and in a manner determined by the pension board, only if the revocation occurs before a distribution from the DROP participant's DROP account or the payment of a survivor benefit under this Act or Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes)~~]; and~~

~~[(3) a DROP participant approved by the pension board of the predecessor system before September 1, 1999, to participate in the DROP may make a one-time, irrevocable election before termination of employment, on a date and in a manner determined by the pension board, to revoke the DROP election and waive any and all rights associated with the DROP election].~~

(k) On revocation of a DROP election under Subsection (j) of this section, the DROP account balance becomes zero, and a distribution of DROP benefits may not be made to the participant ~~[member]~~, the participant's ~~[member's]~~ surviving spouse, or the participant's ~~[member's]~~ beneficiaries. In the event of revocation, the benefits based on the participant's ~~[member's]~~ service are determined as if the participant's ~~[member's]~~ DROP election had never occurred.

(m) If an unanticipated actuarial cost occurs in administering the DROP, the pension board, on the advice of the pension system ~~[system's]~~ actuary, may take action necessary to mitigate the unanticipated cost, including refusal to accept additional elections to participate in the DROP ~~[plan]~~. The pension system shall continue to administer the DROP ~~[plan]~~ for the DROP participants participating in the DROP ~~[plan]~~ before the date of the mitigating action.

(o) Except as provided by Subsection (o-1) of this section, on [On] termination of employment, a DROP participant shall receive a normal retirement pension under Section 10 of this Act or under Section 11, 22A, or 24 of Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), as those sections read on the day preceding the participant's DROP entry date, as applicable, except that the credited service under that section is the member's credited service as of the day before the member's DROP entry date, the benefit accrual rate applicable to the credited service shall be the benefit accrual rate in effect on the member's DROP election date, the maximum allowable benefit shall be the maximum allowable benefit in effect on the member's DROP election date, and the member's average monthly salary is the average monthly salary determined as of the later [date] of the member's DROP entry date or January 1, 2005, as applicable [termination of employment]. The DROP participant's normal retirement pension is increased by any cost-of-living adjustments applied to the monthly credit to the member's DROP account under Subsection (d)(1) of this section during the member's participation in the DROP. Cost-of-living adjustments applicable to periods after the date of the DROP participant's termination of employment are based on the DROP participant's normal retirement pension computed under this subsection or Subsection (o-1) of this section, as applicable, excluding any cost-of-living adjustments.

(o-1) On termination of employment, and before any benefit or DROP payment, a DROP participant who is an option-eligible participant shall make the required election under Section 11 of this Act. If the option-eligible participant elects a J&S Annuity, the DROP account, including all DROP credits, shall be recalculated from the DROP entry date to termination of employment as provided by Subsection (o) of this section as if the J&S Annuity was selected to be effective as of the DROP entry date.

(p) If a DROP election is not revoked under Subsection (j) of this section, the survivor benefit payable to an eligible survivor of a deceased DROP participant under Section 14 of this Act is computed as a percentage of the monthly ordinary disability

pension that the member would have been eligible to receive had the member suffered a disability the day before the member's DROP entry date, except that the ordinary disability pension is computed based on the DROP participant's credited service as of the day before the DROP participant's DROP entry date, the benefit accrual rate applicable to the credited service as of the DROP participant's DROP election date, and the DROP participant's average monthly salary as of the later [date] of the DROP participant's DROP entry date or January 1, 2005, as applicable [death]. A surviving spouse, if any, of a DROP participant who dies from a cause directly resulting from a specific incident in the performance of the DROP participant's duties for the city or the pension system is ineligible to receive enhanced survivor benefits under Section 14(c) of this Act unless the DROP election is revoked under Subsection (j)(2) of this section and the surviving spouse receives a survivor benefit as otherwise provided by this subsection.

(r) Except as provided by Subsection (s) of this section, the pension system may not credit a DROP account with a cost-of-living adjustment percentage on or after February 1, 2018.

(s) On or after February 1, 2018, and for future credit only, the pension system shall credit a cost-of-living adjustment percentage, not compounded, to the DROP account of a DROP participant who was at least 62 years of age as of January 1 of the year in which the increase is made.

(t) The pension board may establish deadlines for the submission of any information, document, or other record pertaining to DROP.

SECTION 3.18. Sections 13(a), (b), and (c), Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) A member who has completed five or more years of credited service and who becomes disabled is eligible, regardless of age, for an ordinary disability retirement and shall receive a monthly disability pension computed in accordance with Section 10(d) of this Act [~~for group A members and Section 10(c) for group B members~~].

(b) A member who is disabled by reason of a personal injury sustained or a hazard undergone as a result of, and while in the performance of, the member's employment duties at some definite place and at some definite time on or after the date of becoming a member, without serious and wilful misconduct on the member's part, is eligible for a service disability retirement and shall receive a monthly disability pension equal to the greater of:

(1) the monthly normal retirement pension computed under Section 10(d) of this Act [~~for a group A member or Section 10(c) for a group B member~~]; or

(2) 20 percent of the member's monthly salary on the date the injury occurred or the hazard was undergone.

(c) In addition to the monthly disability pension under Subsection (b)(2) of this section, a group A member shall receive one percent of the salary under Subsection (b)(2) of this section for each year of credited service. The total disability pension computed under Subsection (b)(2) of this section may not exceed the greater of:

(1) 40 percent of that monthly salary; or

(2) the monthly normal retirement pension computed in accordance with Section 10(d) of this Act [~~for a group A member or Section 10(e) for a group B member~~].

SECTION 3.19. Section 14, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended by amending Subsections (a), (b), (c), (d), (e), and (h) and adding Subsection (b-1) to read as follows:

(a) Except as provided by Section 11 or ~~Section~~ 12 of this Act, the pension board shall order survivor benefits to be paid to an eligible survivor in the form of a monthly allowance under this section if:

(1) a member or former member of group A or group B dies from any cause after the completion of five years of credited service with the city or the pension system;

(2) while in the service of the city or the pension system, a member dies from any cause directly resulting from a specific incident in the performance of the member's duty; ~~or~~

(3) a member of group A or group B dies after the date the member retires on a pension because of length of service or a disability and the member leaves an eligible survivor; or

(4) a member of group D dies from any cause after the completion of five years of credited service with the city or the pension system if the member on the date of the member's death was still in service with the city or the pension system.

(b) A surviving spouse of a member described by Subsection (a)(1) or (4) of this section ~~or former member~~ who dies while still in ~~[dies after having completed five years of credited]~~ service with the city or the pension system ~~[, but before beginning to receive retirement benefits,]~~ is eligible for a sum equal to the following applicable percentage ~~[100 percent]~~ of the retirement benefits to which the deceased member or former member would have been eligible had the member been totally disabled with an ordinary disability at the time of the member's last day of credited service:

(1) 80 percent, if the member's death occurs on or after the year 2017 effective date and the spouse was married to the member for at least one continuous year as of the member's date of death, except that the allowance payable to the surviving spouse may not be less than \$100 a month; or

(2) 50 percent, if the member's death occurs on or after the year 2017 effective date and the spouse was married to the member for less than one continuous year as of the date of the member's death.

(b-1) A surviving spouse of a former member described by Subsection (a)(1) of this section who dies on or after the year 2017 effective date while not in the service of the city or the pension system and before the member's retirement commenced, is eligible for a sum equal to 50 percent of the deceased former member's normal accrued pension at the time of the deceased former member's last day of credited service. Benefits under this subsection first become payable on the date the former member would have become eligible to begin receiving a pension. If the surviving spouse elects for earlier payment, in a time and manner determined by the pension board, the actuarial equivalent of that amount shall be payable at that earlier date.

(c) A surviving spouse of a member described by Subsection (a)(2) of this section who dies from a cause directly resulting from a specific incident in the performance of the member's duty with the city or the pension system, without serious or wilful misconduct on the member's part, is eligible for a sum equal to 80 ~~[100]~~ percent of the deceased member's final average salary.

(d) A surviving spouse of a retiree described by Subsection (a)(3) of this section who dies after having received retirement benefits is eligible for a sum equal to the following applicable percentage ~~[100 percent]~~ of the retirement benefits being received at the time of the retiree's death, including any applicable ~~[-The]~~ cost-of-living adjustment in the survivor benefit under Section 10(h) of this Act ~~[is]~~ computed based on the unadjusted normal retirement pension of the deceased retiree:

(1) 80 percent, if the retiree's death occurs on or after the year 2017 effective date and the retiree separated from service with the city or pension system before the year 2017 effective date;

(2) 80 percent, if the retiree's death occurs on or after the year 2017 effective date and the retiree separated from service with the city or pension system on or after the year 2017 effective date, provided the surviving spouse was married to the retiree at the time of the retiree's death and for at least one continuous year as of the date of the retiree's separation from service; or

(3) 50 percent, if both the retiree's separation from service and death occur on or after the year 2017 effective date and the surviving spouse was married to the retiree at the time of the retiree's death for less than one continuous year as of the date of the retiree's separation from service.

(e) If there is a surviving spouse, each dependent child shall receive a survivor benefit equal to 10 percent of the pension the member would have received if the member had been disabled at the time of death up to a maximum of 20 percent for all dependent children, except that if the total amount payable to the surviving spouse and dependent children is greater than 80 ~~[100]~~ percent of the benefit the member would have received, the percentage of benefits payable to the surviving spouse shall be reduced so that the total amount is not greater than 80 ~~[100]~~ percent of the benefit the member would have received, and the reduction shall continue until the total amount payable to the surviving spouse and dependent child, if any, would not be greater than 80 ~~[100]~~ percent of the benefit the member would have received.

(h) If a retiree dies and there is no eligible survivor, the retiree's spouse, if any, or if there is no spouse, the retiree's estate, is eligible to receive a lump-sum payment of the unamortized balance of the retiree's accrued employee contributions, if any, other than contributions after the DROP entry date, as determined by an amortization schedule and method approved by the pension board. A pension payable to a retiree ceases on the last day of the month ~~[preceding the month]~~ of the retiree's death. A survivor benefit payable to an eligible survivor is effective on the first day of the month following the month of the retiree's death and ceases on the last day of ~~[month preceding]~~ the month of the eligible survivor's death or on the last day of the month in which the survivor otherwise ceases to be eligible to receive a survivor's benefit.

SECTION 3.20. Sections 16(a) and (e), Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Notwithstanding any other provision of this Act, the pension board may pay to a member, deferred participant, eligible survivor, alternate payee, or beneficiary in a lump-sum payment the present value of any benefit payable to such a person that is less than \$20,000 [~~\$10,000~~] instead of paying any other benefit payable under this Act. If the lump-sum present value of the benefit is at least \$1,000 [~~\$5,000~~] but less than \$20,000 [~~\$10,000~~], the pension board may make a lump-sum payment only on written request by the member, deferred participant, eligible survivor, alternate payee, or other beneficiary. The pension board shall make any payment under this subsection as soon as practicable after eligibility under this section has been determined by the pension board.

(e) A member who is reemployed by the city or the pension system and who has at least two years of continuous credited service after reemployment may reinstate service for which the member received a lump-sum payment under this section by paying into the pension fund the amount of the lump-sum payment, plus interest on that amount at the applicable assumed rate of return [~~six percent per year~~], not compounded, from the date the lump-sum payment was made to the member until the date of repayment to the pension fund.

SECTION 3.21. Section 17, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended by amending Subsections (a), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l) and adding Subsections (c-1), (c-2), (q), (r), and (s) to read as follows:

(a) A member who terminates employment with the city involuntarily due to a reduction in workforce, as determined by the pension board, before the member becomes eligible for a normal retirement pension or attains five years of credited service, is eligible to [~~by written notice to the pension board, may make an irrevocable election to~~] leave the person's contributions in the pension fund until the first anniversary of the date of termination. If during that period the person is reemployed by the city and has not withdrawn the person's contributions, all rights and service credit as a member shall be immediately restored without penalty. If reemployment with the city does not occur before the first anniversary of the date of termination, all payments made by the person into the pension fund by salary deductions or other authorized contributions shall be refunded to the person without interest. If the person is subsequently reemployed, the person may have credit restored, subject to the provisions applicable at the time of reemployment.

(c) A former member of group A or group B whose employment is terminated for a reason other than death or receipt of a retirement or disability pension after the completion of five years of credited service may elect, in a manner determined by the pension board, to receive a deferred retirement pension that begins on the member's effective retirement date after the member attains the eligibility requirements for normal retirement under Section 10 of this Act as it existed on the member's last day of credited service [~~either 62 years of age or a combination of years of age and years of credited service, including parts of years, the sum of which equals the number 70~~]. The amount of monthly benefit shall be computed in the same manner as for a normal retirement pension, but based on average monthly salary and credited service as of the member's last day of credited service and subject to the provisions of this Act or

Chapter 358, Acts of 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), in effect on the former member's last day of credited service.

(c-1) A former member of group D whose employment is terminated for a reason other than death or receipt of a retirement or disability pension after the completion of five years of credited service may elect, in a manner determined by the pension board, to receive a deferred normal retirement pension that begins on the former member's effective retirement date after the member attains 62 years of age. The amount of a monthly benefit under this subsection shall be computed in the same manner as a normal retirement pension, except the benefit shall be based on the average monthly salary and credited service of the former member as of the former member's last day of credited service and subject to the provisions of this Act in effect on the former member's last day of credited service.

(c-2) A former member of group D whose employment is terminated for a reason other than death or receipt of a retirement or disability pension and who has met the minimum years of credited service to receive an early reduced retirement pension under Section 10(e) of this Act on attaining the required age, may elect, in a manner determined by the pension board, to receive a deferred early retirement pension that begins on the former member's effective retirement date after the member attains the required age under Section 10(e) of this Act. The amount of monthly benefit shall be computed in the same manner as for an early retirement pension under Section 10(e) of this Act, except that the benefit shall be based on the average monthly salary and credited service of the former member as of the former member's last day of credited service and subject to the provisions of this Act in effect on the former member's last day of credited service.

(d) If a member dies while still employed by the city, whether eligible for a pension or not, and Sections 12 and 14 of this Act do not apply, all of the member's rights in the pension fund shall be satisfied by the refund to the member's spouse ~~[designated beneficiary]~~, if any, or if there is no spouse ~~[designated beneficiary]~~, to the member's estate, of all eligible payments, if any, made by the member into the pension fund, without interest.

(e) ~~[The provisions of Section 14 of this Act concerning payments to eligible survivors apply in the case of any former member who has made the election permitted by Subsection (e) of this section and who dies before reaching the age at which the former member would be eligible to receive a pension.]~~ If there is no eligible survivor of the former member, all of the former member's rights in the pension fund shall be satisfied by the refund to the former member's spouse ~~[designated beneficiary]~~, if any, or if there is no spouse ~~[designated beneficiary]~~, to the former member's estate, of all eligible payments made by the former member into the pension fund by way of employee contributions, without interest.

(f) This Act does not change the status of any former member of the predecessor system whose services with the city or the pension system were terminated under Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), except as otherwise expressly provided. Refunds of contributions made under this section shall be paid to the departing member, the member's spouse ~~[beneficiary]~~, or the member's estate on written request and

approval by the pension board in a lump sum, except that if the pension board determines that funds are insufficient to justify the lump-sum payment, the payment shall be refunded on a monthly basis in amounts determined by the pension board.

(g) If a deferred participant is reemployed by the city or the pension system before receiving a deferred retirement pension or if a retiree is reemployed by the city or the pension system, Subsections (h) and (j) of this section apply to the computation of the member's pension following the member's subsequent separation from service if the member was a member on or after May 11, 2001, and is not otherwise subject to Subsection (q) of this section.

(h) If a member described in Subsection (g) of this section accrues not more than two years of continuous credited service after reemployment:

(1) the portion of the member's deferred or normal retirement pension attributable to the member's period of credited service accrued before the date of the member's original or previous separation from service is computed on the basis of the applicable provisions of this Act or the predecessor system that were in effect on the member's last day of credited service for the original or previous period of credited service;

(2) the portion of the member's deferred or normal retirement pension attributable to the member's period of credited service accrued after the date of the member's reemployment by the city or the pension system is computed on the basis of the applicable provisions of this Act or the predecessor system in effect on the member's last day of credited service for the subsequent period of credited service; and

(3) the disability pension or survivor benefit attributable to the member's period of credited service accrued both before the date of the member's original or previous separation from service and after the date of the member's reemployment by the city or the pension system is computed on the basis of the applicable provisions of this Act or the predecessor system that were in effect on the member's last day of credited service for the original or previous period of credited service.

(i) Subject to Subsection (l) of this section, the disability pension or survivor benefit under Subsection (h)(3) of this section is computed by adding the following amounts:

(1) the amount of the benefit derived from the member's credited service accrued after the date of reemployment based on the benefit accrual rate in effect on the member's last day of original or previous credited service in the group in which the member participated on the member's last day of subsequent credited service; and

(2) the amount of the benefit the member, beneficiary, or eligible survivor was eligible to receive based on the member's original or previous credited service and the provisions in effect on the member's last day of original or previous credited service.

(j) If a ~~the~~ member described by Subsection (g) of this section accrues more than two years of continuous credited service after reemployment, for purposes of future payment only, a deferred retirement pension, normal retirement pension, disability pension, or survivor benefit is computed on the basis of the applicable provisions of this Act or the predecessor system in effect on the member's last day of credited service for the subsequent service.

(k) Notwithstanding any other provision of this Act, if a retiree is reemployed by the city or the pension system and becomes a member, the retiree's pension under this Act ceases on the day before the date the retiree is reemployed. Payment of the pension shall be suspended during the period of reemployment and may not begin until the month following the month in which the reemployed retiree subsequently terminates employment. On subsequent separation, benefits payable are computed under Subsections (h) and (j) of this section, as applicable. If the reemployed retiree receives any pension during the period of reemployment, the retiree shall return all of the pension received during that period to the pension system not later than the 30th day after the date of receipt. If the reemployed retiree does not timely return all of the pension, the pension board shall offset the amount not returned against the payment of any future retirement pension, disability pension, DROP balance, or survivor benefit payable on behalf of the reemployed retiree, plus interest on the disallowed pension at the applicable assumed rate of return, not compounded, from the date the reemployed retiree received the disallowed pension to the date of the offset on the disallowed pension.

(l) Except as provided by Section 14 of this Act, if [H] a member is covered by Subsection (h) of this section and has made an election or was eligible to make an election under Section 11 of this Act or an optional annuity election under Section 29, Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), or has received a pension computed on the basis of an optional annuity election, the optional annuity election, including any designation of an eligible designated survivor, governs the payment of any pension or benefit for the period of service covered by the optional annuity election, and no other survivor benefit is payable for that period of service. If a member meets the requirements of Subsection (j) of this section and has made an optional annuity election or has received a pension computed on the basis of an optional annuity election, the optional annuity election, including any designation of an eligible designated survivor, shall control the payment of any pension or benefit, and no other survivor benefit is payable unless the member elects, not later than the 90th day after the date of the separation of employment and before payment of a pension, to revoke the optional annuity election for future payment of benefits. If revocation occurs, any survivor benefit is paid under Subsection (j) of this section.

(q) Subsections (g) through (l) of this section do not apply to the calculation of any benefit for or attributable to the period of service following:

(1) the employment or reemployment of a member hired or rehired on or after January 1, 2005; or

(2) the reemployment of a deferred retiree or retiree who is reemployed in a pension system covered position before January 1, 2005, but for a period of two years or less of continuous credited service.

(r) If a deferred retiree or retiree subject to Subsection (q)(2) of this section is reemployed in a pension system covered position, the retiree's pension due on the retiree's subsequent retirement shall be computed as follows:

(1) the portion of the retiree's pension attributable to the retiree's periods of credited service that accrued before the retiree's reemployment shall be calculated on the basis of the schedule of benefits for retiring members that was in effect at the time of the member's previous termination or terminations of employment; and

(2) the portion of the member's pension attributable to the member's period of credited service that accrued after the member's reemployment shall be calculated on the basis of the schedule of benefits for retiring members that is in effect at the time of the member's subsequent retirement.

(s) The computation under Subsection (r) of this section may not result in a lower pension benefit amount for the previous service of the retiree than the pension benefit amount the retiree was eligible to receive for the retiree's previous service before the date of reemployment.

SECTION 3.22. Section 18(d), Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) The military service credited under Subsection (c) of this section:

(1) may not exceed a total of 60 months; and

(2) may be claimed as service solely in the group in which the member participates [~~A only if the member is a group A member or group C member~~] at the time the member claims the service[; ~~and~~

~~[(3) may be claimed as service in group B only if the member is a group B member at the time the member claims the service].~~

SECTION 3.23. Sections 24(h) and (i), Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), are amended to read as follows:

(h) Contributions may not accumulate under the excess benefit plan to pay future retirement benefits. The executive director shall reduce each payment of employer contributions that would otherwise be made to the pension fund under Section 8A [~~8~~] of this Act by the amount determined to be necessary to meet the requirements for retirement benefits under the plan, including reasonable administrative expenses, until the next payment of municipal contributions is expected to be made to the pension fund. The employer shall pay to the plan, from the withheld contributions, not earlier than the 30th day before the date each distribution of monthly retirement benefits is required to be made from the plan, the amount necessary to satisfy the obligation to pay monthly retirement benefits from the plan. The executive director shall satisfy the obligation of the plan to pay retirement benefits from the employer contributions transferred for that month.

(i) Employer contributions otherwise required to be made to the pension fund under Section 8A [~~8~~] of this Act and to any other qualified plan shall be divided into those contributions required to pay retirement benefits under this section and those contributions paid into and accumulated to pay the maximum benefits required under the qualified plan. Employer contributions made to provide retirement benefits under this section may not be commingled with the money of the pension fund or any other qualified plan.

SECTION 3.24. Section 8(d), Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), is repealed.

SECTION 3.25. (a) The change in law made by this Act to Section 2, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), applies only to the appointment or election of a trustee of the board of trustees of the pension system established under that law that occurs on or after the effective date of this Act.

(b) A person who is serving as a trustee immediately before the effective date of this Act may continue to serve for the remainder of the trustee's term, and that trustee's qualifications for serving as a trustee for that term are governed by the law in effect immediately before the effective date of this Act.

SECTION 3.26. The pension system established under Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), shall require the pension system actuary to prepare the first actuarial experience study required under Section 8D, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes), as added by this Act, not later than September 30, 2021.

#### ARTICLE 4. PROVISIONS APPLICABLE TO EACH PUBLIC RETIREMENT SYSTEM SUBJECT TO ACT

SECTION 4.01. Chapter 107, Local Government Code, is amended by adding Section 107.0036 to read as follows:

Sec. 107.0036. VOTER APPROVAL REQUIRED FOR CERTAIN PENSION FUND OBLIGATIONS. (a) This section applies only to a public pension fund subject to:

(1) Article 6243e.2(1), Revised Statutes;

(2) Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes); and

(3) Article 6243g-4, Revised Statutes.

(b) A municipality may issue an obligation under Section 107.003 to fund all or any part of the unfunded liability of a public pension fund subject to this section only if the issuance is approved by a majority of the qualified voters of the municipality voting at an election held for that purpose.

SECTION 4.02. Section 107.0036, Local Government Code, as added by this Act, applies only to obligations for which the governing body of a municipality executes an agreement under Section 107.003(b), Local Government Code, on or after the effective date of this Act.

#### ARTICLE 5. CONFLICTING LEGISLATION; EFFECTIVE DATE

SECTION 5.01. If this Act conflicts with any other Act of the 85th Legislature, Regular Session, 2017, this Act controls unless the conflict is expressly resolved by the legislature by reference to this Act.

SECTION 5.02. This Act takes effect July 1, 2017, if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date, this Act takes effect September 1, 2017.

The Conference Committee Report on **SB 2190** was filed with the Secretary of the Senate.

### **RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

#### **Congratulatory Resolutions**

**SR 821** by Schwertner, Recognizing Shayan Zahrooni on the occasion of his graduation.

**SR 822** by Schwertner, Recognizing the James Earl Rudder High School boys' gymnastics team for winning a state championship.

**SR 823** by Schwertner, Recognizing Brianna Matias on the occasion of her graduation.

**SR 824** by Schwertner, Recognizing Isaac Zeringue on the occasion of his graduation.

**SR 825** by West, Commending Howard L. Dennie III for achieving the rank of Eagle Scout.

**SR 826** by West, Commending Malcolm M. Lloyd for achieving the rank of Eagle Scout.

**SR 827** by West, Commending Niegel Stevens for achieving the rank of Eagle Scout.

**SR 828** by West, Recognizing Kathryn M. Clarke for her work as a legislative intern in the office of Senator Royce West.

**SR 829** by West, Recognizing Cassie Davis for her work as a legislative intern in the office of Senator Royce West.

**SR 830** by West, Recognizing Brandy D. Douglas for her work as a legislative intern in the office of Senator Royce West.

**SR 831** by West, Recognizing Dillon Lucas for his work as a legislative intern in the office of Senator Royce West.

**SR 832** by West, Recognizing Holly K. Stephens for her work as a legislative intern in the office of Senator Royce West.

**SR 833** by West, Recognizing Myzar Mendoza for his work as a legislative intern in the office of Senator Royce West.

**SR 834** by West, Recognizing Alex Shahrestani for his work as a legislative intern in the office of Senator Royce West.

### **ADJOURNMENT**

On motion of Senator Whitmire, the Senate at 1:04 a.m. Monday, May 22, 2017, adjourned, in memory of Scott Deem, until 1:05 a.m. today.

**In Memory****of****Scott Deem****Senate Resolution 835**

WHEREAS, The Senate of the State of Texas honors and commemorates the life of Scott Deem, who died in the line of duty on May 18, 2017; and

WHEREAS, Scott Deem was a six-year veteran of the San Antonio Fire Department; he was dedicated to serving his community, and he lost his life while performing search and rescue operations at a massive fire; and

WHEREAS, He was a beloved member of his community and an exceptional firefighter who was widely admired by his colleagues and his fellow citizens throughout the community; and

WHEREAS, Over the course of his distinguished career, he handled the unique challenges of fire service with courage and a deep commitment to public service; and

WHEREAS, A man of strength, compassion, and kindness, he gave unselfishly to others, and his generous spirit and enthusiasm for living will not be forgotten by those who were privileged to share in his life; and

WHEREAS, He was devoted to his family, and he leaves behind memories that will be treasured forever by all those who held him dear; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 85th Legislature, hereby extend sincere condolences to the bereaved family of Scott Deem; and, be it further

RESOLVED, That a copy of this Resolution be prepared for his family as an expression of deepest sympathy from the Texas Senate and that when the Senate adjourns this day, it do so in memory of Scott Deem.

CAMPBELL  
MENÉNDEZ  
URESTI  
ZAFFIRINI

