

BILL ANALYSIS

Senate Research Center

H.B. 4368
By: Rodriguez et al. (Buckingham)
Finance
5/19/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2019, an actuarial valuation of data showed the funded ratio of the Austin Police Retirement System was 58.4 percent, and the period to amortize the unfunded actuarial accrued liability was "never." The fund was estimated to run out of money in about 50 years.

In budget decisions made in 2020, the Austin City Council included a placeholder for an unspecified increase in contributions to the retirement system contingent on passage of pension reform legislation in 2021. The funding gap known at the time was for a needed 10 to 12 percent increase in contributions. In the same budget, the city council reduced funding to the police department, which ultimately could result in contribution decreases to the retirement system. The retirement system also experienced a record number of retirements in 2020, which has a negative impact on the actuarial funding status.

H.B. 4368 seeks to resolve the issue by, among other things, establishing a new tier of benefits for members hired after a certain date, increasing member contributions, and revising city contributions to pay down the unfunded liability.

H.B. 4368 amends current law relating to participation in, contributions to, and the benefits and administration of retirement systems for police officers in certain municipalities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1.02, Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), by amending Subdivisions (2) and (4) and adding Subdivisions (1-a), (2-a), (3-a), (3-b), (6-a), (6-b), (6-c), (6-d), (6-e), (10-a), (11-a), (13-a), (13-b), (13-c), (15-a), (15-b), (15-c), (15-d), (15-e), (17-a), (18-a), (18-b), (19-a), (19-b), (23-a), (29-a), and (29-b), as follows:

(1-a) Defines "actuarial accrued liability."

(2) Redefine "actuarial equivalent."

(2-a) Defines "actuarial value of assets."

(3-a) Defines "amortization period."

(3-b) Defines "amortization rate."

(4) Redefines "average final compensation."

(6-a) Defines "city contribution rate."

(6-b) Defines "city legacy contribution amount."

- (6-c) Defines "corridor."
- (6-d) Defines "corridor margin."
- (6-e) Defines "corridor midpoint."
- (10-a) Defines "employer normal cost rate."
- (11-a) Defines "estimated city contribution rate."
- (13-a) Defines "funded ratio."
- (13-b) Defines "group A member."
- (13-c) Defines "group B member."
- (15-a) Defines "legacy liability."
- (15-b) Defines "level percent of payroll method."
- (15-c) Defines "liability gain layer."
- (15-d) Defines "liability layer."
- (15-e) Defines "liability loss layer."
- (17-a) Defines "maximum city contribution rate."
- (18-a) Defines "minimum city contribution rate."
- (18-b) Defines "normal cost rate."
- (19-a) Defines "payoff year."
- (19-b) Defines "pensionable payroll."
- (23-a) Defines "projected pensionable payroll."
- (29-a) Defines "unanticipated change."
- (29-b) Defines "unfunded actuarial accrued liability."

SECTION 2. Amends Section 3.02, Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), as follows:

Sec. 3.02. New heading: COMPOSITION OF BOARD; TRUSTEE QUALIFICATIONS.

(a) Requires the police retirement board to be composed of 11 members as follows:

(1)-(3) makes no changes to these subdivisions;

(4) four, rather than five, police officer members elected by the police officer members of the police retirement system (system), each of whom serves for a term of four years;

(5) one legally qualified voter of the city, who is a resident and has been a resident for the preceding five years, is not an employee of the city or a member of the system, and has demonstrated experience in the field of finance or investments, to be appointed by the police retirement board to

serve for a term of four years and until the member's successor is duly selected and qualified;

(6) one legally qualified voter of the city, who is a resident and has been a resident for the preceding five years, is not an employee of the city or a member of the system, and has demonstrated experience in the field of finance or investments, to be appointed by the city council to serve for a term of four years and until the member's successor is duly selected and qualified; and

(7) creates this subdivision from existing text and makes no further changes.

(b) Provides that the terms of two members elected as described by Subsection (a)(4) of this section expire in 2023, rather than 2001, and every fourth subsequent year, and the terms of two, rather than three, members elected as described by Subsection (a)(4) of this section expire in 2025, rather than 2003, and every fourth subsequent year.

(b-1) Requires a member of the police retirement board appointed under Subsection (a)(5) or (a)(6) of this section to:

(1) have, at the time of taking office, the qualifications required for the trustee's position; and

(2) maintain during service on the board the qualifications required for the trustee's position.

(c) Provides that a vacancy occurring by the death, resignation, or removal of the member appointed under Subsection (a)(6) of this section shall be filled by appointment by the city council. Makes nonsubstantive changes.

SECTION 3. Amends Section 3.09(b), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), as follows:

(b) Requires the actuary designated by the police retirement board, from time to time on the advice of the actuary and at the direction of the board and as provided by Section 3.091 of this Act, to make an actuarial investigation of the mortality, service, and compensation experience of members, retired members, and beneficiaries of the system and to recommend for adoption by the board the tables and rates required by the system.

SECTION 4. Amends Article III, Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), by adding Section 3.091, as follows:

Sec. 3.091. PROCESS FOR EXPERIENCE STUDIES AND CHANGES TO ACTUARIAL ASSUMPTIONS. (a) Requires the police retirement board, at least once every five years, to have the system's actuary designated under Section 3.09 (Actuary; Duties) of this Act conduct an experience study to review the actuarial assumptions and methods adopted by the board for the purposes of determining the actuarial liabilities and actuarially determined contribution rates of the system. Requires the system to notify the city at the beginning of an upcoming experience study by the system's actuary.

(b) Provides that, in connection with the system's experience study, the city will inform the system if it will:

(1) conduct the city's own experience study using the city's own actuary;

(2) have the city's actuary review the experience study of the system's actuary; or

(3) accept the experience study of the system's actuary.

(c) Requires the city, if the city chooses to:

(1) have the city's own experience study performed under Subsection (b)(1) of this section, to complete the study not later than three months after the date the system notified the city of the system's intent to conduct an experience study;

(2) have the city's actuary review the system's experience study under Subsection (b)(2) of this section, to complete the review not later than one month after the date the preliminary results of the experience study are presented to the board.

(d) Requires the system's actuary and the city's actuary, if the city chooses to have the city's own experience study performed under Subsection (b)(1) of this section, or to have the city's actuary review the system's experience study under Subsection (b)(2) of this section, to determine what the hypothetical city contribution rate would be using the proposed actuarial assumptions from the experience studies and data from the most recent actuarial valuation.

(e) Provides that, if the difference between the hypothetical city contribution rates determined by the system's actuary and the city's actuary under Subsection (d) of this section:

(1) is less than or equal to two percent of pensionable payroll, then no further action is needed and the board is required to use the experience study performed by the system's actuary in determining assumptions; or

(2) is greater than two percent of pensionable payroll, then the system's actuary and the city's actuary is required to have 20 business days to reconcile the difference in actuarial assumptions or methods causing the different hypothetical city contribution rates, and:

(A) if, as a result of the reconciliation efforts under this subdivision, the difference between the city contribution rates determined by the system's actuary and the city's actuary is reduced to less than or equal to two percentage points, then no further action is needed and the board is required to use the experience study performed by the system's actuary in determining actuarial assumptions; or

(B) if, after 20 business days, the system's actuary and the city's actuary are not able to reach a reconciliation that reduces the difference in the hypothetical city contribution rates to an amount less than or equal to two percentage points, a third-party actuary is required to be retained to opine on the differences in the assumptions made and actuarial methods used by the system's actuary and the city's actuary.

(f) Requires the independent third-party actuary retained in accordance with Subsection (e)(2)(B) of this section to be chosen by the city from a list of three actuarial firms provided by the system.

(g) Provides that, if a third-party actuary is retained under Subsection (e)(2)(B) of this section, the third-party actuary's findings will be presented to the board along with the experience study conducted by the system's actuary and, if applicable, the city's actuary. Provides that, if the board adopts actuarial assumptions or methods contrary to the third-party actuary's findings:

(1) the system is required to provide a formal letter describing the rationale for the board's action to the city council and State Pension Review Board (PBR); and

(2) the system's actuary and executive director are required to be made available at the request of the city council or PBR to present in person the rationale for the board's action.

(h) Requires the system and the city, if the board proposes a change to actuarial assumptions or methods that is not in connection with an experience study described in Subsection (a) of this section, to follow the same process prescribed by this section with respect to an experience study in connection with the proposed change.

SECTION 5. Amends Section 3.10, Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), as follows:

Sec. 3.10. INVESTMENT MANAGERS. Authorizes the police retirement board to hire an investment manager or investment managers who are required to have full authority to invest the assets and manage any portion of the portfolio of the system, as specified by the manager's contract, rather than the manager's employment contract.

SECTION 6. Amends Section 4.01, Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), by amending Subsections (c) and (e) and adding Subsections (e-1) and (e-2), as follows:

(c) Requires any person who becomes an employee of the city or the system, if eligible for membership, to become a member as a condition of employment and to make the required deposits commencing with the first pay period following a probationary period of six continuous months from date of employment, if applicable, or eligibility, if later.

(e) Makes conforming and nonsubstantive changes to this subsection.

(e-1) Provides that each member is either a group A member or a group B member, as follows:

(1) a member is a group A member if the member was:

(A) retired from or employed by the city or the system on December 31, 2021;

(B) a vested--noncontributory member as of December 31, 2021, who has not withdrawn the member's accumulated deposits; or

(C) formerly employed by the city or the system before December 31, 2021, returned to employment with the city or system on or after January 1, 2022 and:

(i) did not withdraw the member's accumulated deposits from the system; or

(ii) withdrew the member's accumulated deposits from the system, but reinstated all of the previously forfeited creditable service; and

(2) a member is a group B member if the member:

(A) first became employed by the city or the system on or after January 1, 2022; or

(B) was formerly employed by the city or the system before December 31, 2021, returned to employment with the city or system on or after January 1, 2022 and:

(i) while the member was separated from service, withdrew the member's accumulated deposits from the system; and

(ii) has not reinstated all of the member's previously forfeited creditable service.

(e-2) Creates this subsection from existing text. Requires that it be the duty of the police retirement board to determine the membership group to which each police officer or employee of the system who becomes a member of the police retirement system properly belongs under Subsections (e) and (e-1) of Section 4.01 (Membership)..

SECTION 7. Amends Section 5.03(a), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), as follows:

(a) Authorizes an eligible member or eligible surviving spouse to establish creditable service for probationary service performed as provided under Section 5.03 (Probationary Service Credit) according to the certain conditions, limitations, and restrictions, including that probationary service creditable in the system is any probationary service following the member's commission date or the member's first date of employment with the system for which the member does not have creditable service.

SECTION 8. Amends Section 5.04(a), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), as follows:

(a) Requires police cadets whose cadet class begins after April 1, 1998, rather than police cadets whose class begins after the city council makes the authorization, under irrevocable action taken by the city council on February 12, 1998, to make deposits to the system in accordance with Section 8.01(a) of this Act, and requires those cadets to be members of the system and to receive creditable service for employment as cadets while members of a cadet class, notwithstanding Sections 1.02(7), (18), and (21) of this Act.

Deletes existing text providing that Section 5.04 (Cadet Service Credit) does not take effect unless the city council authorizes the city to begin making contributions to the system in accordance with Section 8.01(a) of this Act for police cadets during their employment as cadets while members of a cadet class.

SECTION 9. Amends Section 6.01, Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), by amending Subsections (a) and (f), as follows:

(a) Requires that each monthly payment of the life annuity (modified cash refund) be equal to one-twelfth of;

(1) for a group A member, the product of 3.2 percent, rather than 2.88 percent, of a member's average final compensation multiplied by the number of months of creditable service; or

(2) for a group B member, the product of 2.5 percent of a member's average final compensation multiplied by the number of months of creditable service.

Deletes existing text authorizing the retirement benefit percent specified by Section 6.01 (Service Retirement Benefits and Increases in Benefits) to calculate the amount of the monthly payment of the life annuity (modified cash refund) to be changed after 1997 if certain conditions apply.

(f) Prohibits compensation of each noneligible member taken into account under this Act, for purposes of this section, from exceeding the maximum amount allowed under, rather than exceeding \$200,000 per calendar year, and indexed pursuant to, Section 401(a)(17) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401). Provides that the limit prescribed by this subsection, rather than the \$200,000 limit, does not apply to an eligible member.

SECTION 10. Amends Section 6.02, Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires a group A member, rather than any member, to be eligible for service retirement if the member has attained the age of 55 years and completed at least 20 years of creditable service with the city, or has completed 23 years of creditable service, excluding any military service established under Section 5.02 (Military Service Credit) of this Act.

(a-1) Requires a group B member to be eligible for service retirement if the member has attained the age of 50 years and completed at least 25 years of creditable service with the city, excluding any military service established under Section 5.02 of this Act.

SECTION 11. Amends Section 6.04(b), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), as follows:

(b) Requires the police retirement system, if a member who has attained the applicable age for the minimum distribution required under Section 401(a)(9) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)(9)), rather than attained age 70-1/2, separates or has separated from service without applying for retirement or a refund of accumulated deposits, to attempt to send to that member a written notice as soon as practicable after the later of the date the member attains the applicable age, or the date the member separates from service. Requires that the written notice advise the member of the requirement under Section 401(a)(9) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)(9)) to retire and begin receiving a monthly retirement benefit. Makes conforming changes.

SECTION 12. Amends Section 6.07(e), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), as follows:

(e) Deletes existing text requiring that subsequent monthly annuity amounts that would have been paid during the RETRO DROP benefit accumulation period include any cost-of-living increases or special ad hoc increases in annuity amounts granted in accordance with Sections 6.01(c) and (d) of this Act.

SECTION 13. Amends Section 7.02, Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Provides that, if the disability is a direct or proximate result of the performance of the member's employment duties with the system or the city, then the disability retirement benefit will be subject to a minimum benefit determined in accordance with Section 6.01(a)(1) or (2) of this Act, as applicable, based on:

(1) creates this subdivision from existing text and makes a nonsubstantive change; and

(2) for:

(A) a group A member, 20 years of creditable service; or

(B) a group B member, 25 years of creditable service.

(a-1) Creates this subsection from existing text. Provides that the options allowed under Section 7.02 (Computation of Disability Benefit) are life annuity or its actuarial equivalent payable in the form described as Option I, Option II, Option III, Option IV, or Option V in Section 6.03 (Annuity Options) of this Act.

SECTION 14. Amends Article VIII, Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), by amending Section 8.01 and adding Sections 8.02 through 8.13, as follows:

Sec. 8.01. New heading: MEMBER CONTRIBUTIONS. (a) Requires that deposits by the members to the system be made at a rate of at least:

(1) 13 percent of the basic hourly earnings of the member, rather than earnings of each member, for each pay period beginning before January 1, 2022; and

(2) 15 percent of the basic hourly earnings of the member, for each pay period beginning on or after January 1, 2022, unless a different member contribution rate is required in accordance with Section 8.04(b)(4) of this Act, as adjusted, if applicable, under Section 8.065 of this Act, except that the rate is prohibited from exceeding 17 percent.

(a-1) Creates this subsection from existing text. Requires that deposits required to be made by members under Subsection (a) of this section be deducted from payroll each pay period.

(a-2) Creates this subsection from existing text. Authorizes the Active--Contributory members, on recommendation of the board, to by a majority of those voting increase the rate of member deposits above the minimum rate of deposit established by Subsection (a) of this section, to whatever amount the board has recommended. Authorizes the rate, if the deposit rate for members has been increased to a rate above the rate established by Subsection (a) of this section in accordance with this subsection, rather than a rate above 13 percent, to be decreased to a rate lower than the rate prescribed by Subsection (a)(2) of this section if the board recommends the decrease, the board's actuary approves the decrease, and a majority of the Active--Contributory members voting on the matter approve the decrease. Provides that, if an increase in the member contribution rate is made solely as the result of an adjustment under Section 8.065 of this Act, that increase is prohibited from being decreased under this subsection. Makes a conforming change.

Sec. 8.02. CITY CONTRIBUTIONS. (a) Creates this subsection from existing text. Requires the city to contribute amounts equal to 21 percent of the basic hourly earnings of each member employed by the city for all pay periods beginning after September 30, 2012, and before January 1, 2022, subject to additional amounts as provided by Section 8.07 of this Act. Requires the city, for all pay periods beginning on or after January 1, 2022, to make contributions to the system in accordance with Subsections (b) and (c) of this section and Sections 8.03, 8.04, 8.05, and 8.06 of this Act, as applicable, and subject to additional amounts as provided by Section 8.07 of this Act.

Deletes existing text requiring the city to contribute amounts equal to 18 percent of the basic hourly earnings of each member employed by the city for all periods on or before September 30, 2010, subject to additional amounts as provided by Subdivision (3) of this subsection. Deletes existing text requiring the city to contribute amounts equal to 19 percent of the basic hourly earnings of each member employed by the city for all periods after September 30, 2010, and before October 1, 2011, subject to additional amounts as provided by Subdivision (3) of this subsection. Deletes existing text requiring the city to contribute amounts equal to 20 percent of the basic hourly earnings of each member employed by the city for all periods after September 30, 2011, and before October 1,

2012, subject to additional amounts as provided by Subdivision (3) of this subsection. Deletes existing requiring the city to contribute amounts equal to 21 percent of the basic hourly earnings of each member employed by the city for all periods after September 30, 2012 subject to additional amounts as provided by Subdivision (3) of this subsection.

(b) Requires the city, for each pay period that begins on or after January 1, 2022, and before January 1, 2023, to contribute an amount equal to the sum of:

(1) the city contribution rate, as determined in the initial risk sharing valuation study conducted under Section 8.03 of this Act, multiplied by the pensionable payroll for the applicable pay period; and

(2) $1/26$ of the city legacy contribution amount for the 2022 calendar year, as determined and adjusted in the initial risk sharing valuation study conducted under Section 8.03 of this Act.

(c) Requires the city, for each pay period that begins on or after January 1, 2023, to contribute an amount equal to the sum of:

(1) the city contribution rate for the applicable calendar year, as determined in a subsequent risk sharing valuation study conducted under Section 8.04 of this Act and adjusted under Section 8.05 or 8.06 of this Act, as applicable, multiplied by the pensionable payroll for the applicable pay period; and

(2) $1/26$ of the city legacy contribution amount for the applicable calendar year, as determined and adjusted in the initial risk sharing valuation study conducted under Section 8.03 of this Act.

Sec. 8.03. INITIAL RISK SHARING VALUATION STUDY. (a) Requires the system to cause the system's actuary to prepare an initial risk sharing valuation study that is dated as of December 31, 2020, in accordance with this section.

(b) Requires that the initial risk sharing valuation study:

(1) except as otherwise provided by this section, be prepared in accordance with the requirements of Section 8.04 of this Act;

(2) be based on the actuarial assumptions that were used by the system's actuary in the valuation completed for the year ended December 31, 2020;

(3) project the corridor midpoint for the next 30 calendar years beginning with the calendar year that begins on January 1, 2022; and

(4) include a schedule of city legacy contribution amounts for 30 calendar years beginning with the calendar year that begins on January 1, 2022.

(c) Requires that the schedule of city legacy contribution amounts, for purposes of Subsection (b)(4) of this section, be determined in such a manner that the total annual city legacy contribution amount for the first three calendar years will result in a phase-in of the anticipated increase in the city's contribution rate from the calendar year that begins on January 1, 2021, in accordance with Subsection (a) of this section, to the rate equal to the sum of the estimated contribution rate for the calendar year that begins on January 1, 2022, and the rate of pensionable payroll equal to the city legacy contribution amount for January 1, 2022, determined as if there was no phase-in of the increase to the city legacy contribution amount. Requires that the phase-in reflect approximately one-third of the increase each year over the three-year phase-in period. Requires the city's contribution under Section 8.02 of this Act for:

(1) the calendar years that begin on January 1, 2022, January 1, 2023, and January 1, 2024, to be adjusted to reflect the impact of the phase-in prescribed by this section; and

(2) each calendar year that begins on January 1, 2025, through January 1, 2051, to reflect a city legacy contribution amount that is three percent greater than the city legacy contribution amount for the preceding calendar year.

(d) Requires that the estimated city contribution rate for the calendar year that begins on January 1, 2022, be based on the projected pensionable payroll, as determined under the initial risk sharing valuation study required by this section, assuming a payroll growth rate of three percent.

Sec. 8.04. SUBSEQUENT RISK SHARING VALUATION STUDIES. (a) Requires the system, for each calendar year beginning after December 31, 2020, to cause the system's actuary to prepare a risk sharing valuation study in accordance with this section and actuarial standards of practice.

(b) Requires that each risk sharing valuation study:

(1) be dated as of the last day of the calendar year for which the study is required to be prepared;

(2) calculate the unfunded actuarial accrued liability of the system as of the last day of the applicable calendar year, including the liability layer, if any, associated with the most recently completed calendar year;

(3) calculate the estimated city contribution rate for the following calendar year;

(4) determine the city contribution rate and the member contribution rate for the following calendar year, taking into account any adjustments required under Section 8.05, 8.06, or 8.065 of this Act, as applicable; and

(5) except as provided by Subsection (d) of this section, be based on the assumptions and methods adopted by the board in accordance with Section 3.091 of this Act, if applicable, and that are consistent with actuarial standards of practice and the following principles:

(A) closed layered amortization of liability layers to ensure that the amortization period for each liability layer begins 12 months after the date of the risk sharing valuation study in which the liability layer is first recognized;

(B) each liability layer is assigned an amortization period;

(C) each liability loss layer will be amortized over a period of 30 years from the first day of the calendar 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 is required to be amortized over a 30-year period beginning January 1, 2022;

(D) each liability gain layer will be amortized over:

(i) a period equal to the remaining amortization period on the largest remaining liability loss layer, and the two layers are required to 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 calendar year beginning 12 months after the date of the risk sharing valuation study in which the liability gain layer is first recognized;

(E) liability layers will be funded according to the level percent of payroll method;

(F) payroll for purposes of determining the corridor midpoint, city contribution rate, and city legacy contribution amount are required to be projected using the annual payroll growth rate assumption adopted by the board; and

(G) the city contribution rate will be calculated each calendar year without inclusion of the legacy liability.

(c) Authorizes the city and the board to agree on a written transition plan for resetting the corridor midpoint:

(1) if at any time the funded ratio of the system is equal to or greater than 100 percent; or

(2) for any calendar year after the payoff year of the legacy liability.

(d) Authorizes the board, subject to Section 3.091 of this Act, to by rule adopt actuarial principles other than those required under Subsection (b)(5) of this section, provided the actuarial principles:

(1) are consistent with actuarial standards of practice;

(2) are approved by the system's actuary; and

(3) do not operate to change the city legacy contribution amount.

Sec. 8.05. ADJUSTMENT TO CITY CONTRIBUTION RATE IF LOWER THAN CORRIDOR MIDPOINT. (a) Provides that this section governs the determination of the city contribution rate applicable in a calendar year under Section 8.04(b)(4) of this Act if the estimated city contribution rate determined under Section 8.04(b)(3) of this Act is lower than the corridor midpoint.

(b) Provides that, if the estimated city contribution rate is lower than the corridor midpoint and the funded ratio is:

(1) less than 90 percent, the city contribution rate for the applicable 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 city contribution rate, the estimated city contribution rate is the city contribution rate for the calendar year; or

(B) less than the minimum city contribution rate for the corresponding calendar year, the city contribution rate for the calendar year equals the minimum city contribution rate.

(c) Provides that, if the funded ratio is equal to or greater than 100 percent:

(1) all existing liability layers, including the legacy liability, are considered fully amortized and paid; and

(2) the city legacy contribution amount may no longer be included in the city contribution under Section 8.02 of this Act.

Sec. 8.06. ADJUSTMENT TO CITY CONTRIBUTION RATE IF EQUAL TO OR GREATER THAN CORRIDOR MIDPOINT. (a) Provides that this section governs the determination of the city contribution rate applicable in a calendar year under Section 8.04(b)(4) of this Act if the estimated city contribution rate determined under Section 8.04(b)(3) of this Act is equal to or greater than the corridor midpoint.

(b) Provides that, if the estimated city contribution rate is equal to or greater than the corridor midpoint and:

(1) less than or equal to the maximum city contribution rate for the corresponding calendar year, the estimated city contribution rate is the city contribution rate; or

(2) greater than the maximum city contribution rate for the corresponding calendar year, the city contribution rate is the maximum city contribution rate.

Sec. 8.065. INCREASED MEMBER CONTRIBUTION RATE IF ESTIMATED CITY CONTRIBUTION RATE GREATER THAN MAXIMUM CITY CONTRIBUTION RATE. (a) Provides that this section governs the determination of the member contribution rate applicable in a calendar year under Section 8.04(b)(4) of this Act if the estimated city contribution rate determined under Section 8.04(b)(3) of this Act is greater than the maximum city contribution rate.

(b) Provides that, except as provided by Subsection (c) of this section, if the estimated city contribution rate is greater than the corridor maximum, the member contribution rate will increase by an amount equal to the difference between the following:

(1) the estimated city contribution rate; and

(2) the maximum city contribution rate.

(c) Prohibits the member contribution rate from being increased by more than two percentage points under this section.

(d) Requires the city and the board, if the estimated city contribution rate is more than two percent of pensionable payroll greater than the maximum city contribution rate, to enter into discussions to determine additional funding solutions.

Sec. 8.07. ADDITIONAL CITY CONTRIBUTIONS FOR PROPORTIONATE RETIREMENT PROGRAM PARTICIPATION. (a) Creates this subsection from existing text. Requires the city to contribute amounts in addition to the amounts described by Section 8.02 of this Act, rather than described by Subdivision (2) of this subsection, as required by Section 803.101(h) (relating to requiring the governing body of the municipality that finances the system, if the governing body of a public retirement system adopts a resolution to participate in the proportionate retirement program, to appropriate and pay certain amounts to the system), Government Code, to fund the additional liabilities incurred by the system as a result of participating in the proportionate retirement program. Provides that the rate at which the city is required to contribute additional amounts under this section is equal to 0.737 percent, rather than 0.25 percent, of the basic hourly earnings of each member employed by the city for all pay periods

commencing on or after October 1, 2020, subject to adjustment under Subsection (b) of this section, rather than for all from January 4, 2009, through September 30, 2009. Makes a conforming change.

(b) Creates this subsection from existing text. Requires that the additional contribution rate under Subsection (a) of this section to increase or decrease as considered necessary by the actuary for the system after each five-year period of participation by the system in the proportionate retirement program in order to update the amount necessary to fund the additional liabilities incurred by the system as a result of participating in the proportionate retirement program and of the consolidation of the city's public safety and emergency management department with the police department on January 4, 2009. Makes conforming changes.

Sec. 8.08. PUBLICATION OF CHANGES TO CONTRIBUTION RATES. Creates this subsection from existing text. Requires that any change of the rates of deposit and the rates of contribution be published when approved by the board.

Sec. 8.09. EXPENSES. (a) Creates this subsection from existing text. Deletes existing text requiring that contributions by the city be paid to the system after appropriation by the city council.

(b) Creates this subsection from existing text and makes no further changes.

Sec. 8.10. PAYMENT OF CONTRIBUTIONS. (a) Requires that contributions by the city be paid to the system after appropriation by the city council.

(b) Creates this subsection from existing text. Requires the city to make the police officer contributions to the system required by Section 8.02 of this Act. Makes a conforming change.

(c) and (d) Creates these subsections from existing text and makes no further changes.

(e) Creates this subsection from existing text and makes a conforming change.

Sec. 8.11. EFFECT OF SYSTEM TERMINATION ON CONTRIBUTIONS. Creates this subsection from existing text. Prohibits further contributions, if the system is terminated, from being made by the city or the system, and further deposits from being made by the members for service after the date of termination. Makes a nonsubstantive change.

Sec. 8.12. EFFECT OF FORFEITURE. Creates this subsection from existing text and makes a nonsubstantive change.

Sec. 8.13. SYSTEM ASSETS. Creates this subsection from existing text and makes a nonsubstantive change.

SECTION 15. Amends Section 13.02, Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), as follows:

Sec. 13.02. MANDATORY DISTRIBUTIONS PROHIBITED. Prohibits a member or former member who has separated from service from being required to receive an eligible rollover distribution, as defined in Section 13.01(b)(1) (relating to defining "eligibility rollover distribution," "eligibility retirement plan," "distribute," and "direct rollover") of this Act, without the member's consent unless the member or former member has attained the applicable age for minimum distributions required under Section 401(a)(9) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)(9)), rather than unless the member or former member is at least 70-1/2 years of age.

SECTION 16. Repealer: Section 5.04(b) (relating to providing that certain subsections of this section take effect on the date on which the changes made by those subsections are approved by the board's actuary), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes).

Repealer: Section 6.01(c) (relating to requiring the board to have the power to authorize an annual cost of living adjustment), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes).

Repealer: Section 6.01(d) (relating to requiring the board, in determining whether to authorize the payment and the amount of any annual adjustment, to be governed by certain conditions, considerations, limitations, and restrictions), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes).

Repealer: Section 6.01(e) (relating to requiring certain terms and definitions to be used in construing the meaning of this section), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes).

Repealer: Section 6.02(b) (relating to authorizing age and length-of-service requirements for service retirement to be changed if the change meets certain criteria), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes).

Repealer: Section 7.02(b) (relating to requiring that the computation of the actuarial equivalent for optional forms of annuity payment for disability benefits be calculated using a certain method), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes).

SECTION 17. (a) Defines "police retirement board."

(b) Provides that Section 3.02, Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), does not affect the term of a member of the police retirement board appointed or elected under that section, as that section existed immediately before the effective date of this Act, and serving on the board on the effective date of this Act.

(c) Provides that, when the terms of:

(1) the two members of the police retirement board elected under Section 3.02(a)(4), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), as that section existed immediately before the effective date of this Act, who have terms that expire in December 2021, expire:

(A) one of the resulting vacancies on the board is required to be filled by appointment by the city council in accordance with Section 3.02(a)(6), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), as amended by this Act; and

(B) the other resulting vacancy is required to be filled by election of the members in accordance with Sections 3.02(a)(4) and 3.03, Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), as applicable; and

(2) the three members of the police retirement board elected under Section 3.02(a)(4), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), as that section existed immediately before the effective date of this Act, who have terms that expire in

December 2023, expire, the resulting vacancies on the board is required to be filled by an election of the members in accordance with that section and Section 3.03, Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), as applicable, except that the member receiving the third highest number of votes in that election is required to serve for a term of only two years with the member's term expiring in December 2025.

SECTION 18. Effective date: September 1, 2021.