

CHAPTER 372

H.B. No. 1029

An Act relating to administration and investment of assets of, contributions to, and benefits from, fire fighter's relief and retirement funds in certain cities.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Sections 1(1) and (3), Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), are amended to read as follows:

(1) "Board" or "board of trustees" means the board of *fire fighter's* [~~firemen's~~] relief and retirement fund trustees.

(3) "Fund" or "pension fund" means the *fire fighter's* [~~firemen's~~] relief and retirement fund.

**SECTION 2.** Section 2, Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. A *fire fighter's* [~~firemen's~~] relief and retirement fund is created in all incorporated cities having a population of not less than 300,000 nor more than 375,000, according to the last preceding federal census, and having a fully paid fire department. The mayor of the city, the city treasurer, or if no treasurer, then the city secretary, city clerk, or other person or officer as by

law, charter provision, or ordinance, performs the duty of city treasurer, and three members of the regularly organized active fire department, to be selected by vote of the members of the fire department in the manner provided in this Act, shall be and are constituted the "Board of Fire Fighter's [Firemen's] Relief and Retirement Fund Trustees" to receive, handle and control, manage, and disburse the fund for the respective city or town. The board shall have the power and authority to hear and determine all applications for retirement, claims for disability, either partial or total, and to designate the beneficiaries or persons entitled to participate as provided by this Act. The board shall be known as the "Board of Fire Fighter's [Firemen's] Relief and Retirement Fund Trustees of , Texas." The mayor shall be the chairman and the city treasurer shall be the secretary-treasurer of the board of trustees respectively. The fire department of any city that comes within the provisions of this Act shall elect by ballot three of its members, one to serve for one year, one to serve for two years, and one to serve for three years, or until their successors may be elected as provided in this Act, as members of the board of trustees and shall immediately certify the election to the governing body of the city. Annually thereafter, on the first Monday in the month of January after the effective date of this Act, the fire department shall elect by ballot and certify, one member of such board of trustees for a three-year term. The board of trustees shall elect annually from among their number a vice-chairman who shall act as chairman in the absence or disability of the mayor-chairman. The board of trustees shall hold regular monthly meetings at a time and place as it may by resolution designate and may hold special meetings on call of the chairman as he may deem necessary; shall keep accurate minutes of its meetings and records of its proceedings; shall keep separate from all other city funds all money for the use and benefit of the fire fighter's [firemen's] relief and retirement fund; shall keep a record of all claims, receipts, and disbursements in a book or books to be furnished by the city for the purpose; shall make disbursements from the fund only on regular voucher signed by the treasurer and countersigned by the chairman or vice-chairman and at least one other member of the board of trustees. The city treasurer, as the treasurer of the board of trustees, shall be the custodian of the fire fighter's [firemen's] relief and retirement fund for the city, *except for funds deposited in an investment custody account pursuant to an investment custodial agreement described by Section 18(h) of this Act*, under penalty of his official bond and oath of office. No member of the board of trustees may receive compensation for service on the board of trustees. The board of fire fighter's [firemen's] relief and retirement fund trustees of each such city or town in this state shall annually and not later than the 31st day of January of each year after this Act takes effect, make and file with the city treasurer a detailed and itemized report of all receipts and disbursements with respect to the fund, together with a statement of their administration, and shall make and file other reports and statements or furnish further information as from time to time may be required or requested by the city treasurer.

The board of trustees shall have the power and authority to compel witnesses to attend and testify before it with respect to all matters connected with the operation of this Act in the same manner as is or may be provided for the taking of testimony before notaries public, and its chairman shall have the power and authority to administer oaths to witnesses. A majority of all members shall constitute a quorum to transact business, and any order of the board of trustees shall be made by vote to be recorded in the minutes of its proceedings. If a vacancy occurs in the membership of the board of trustees by reason of the death, resignation, removal, or disability of an incumbent, the vacancy shall be filled in the manner provided in this Act for the selection of the member to be so succeeded.

**SECTION 3.** Section 3, Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), is amended by amending Subsections (a), (b), and (c) and adding Subsection (f) to read as follows:

(a) Any person who has been duly appointed and enrolled and who has attained the age of 55 years or served actively for a period of 35 years, regardless of age, that service having been performed in any rank, as a fully paid fireman, in one or more regularly organized fire departments in any city in this state covered by the provisions of this Act may retire from that service or department and on retirement is entitled to receive from the fire fighter's [firemen's] relief and retirement fund of that city a monthly pension equal to 2-1/2 [~~the sum of three-fourths of one percent of his average monthly salary multiplied by his service, if any, prior to 1911, plus two~~] percent of his average monthly salary multiplied by the number of the person's years of [his] service [~~after 1910~~].

*The maximum permissible annual benefit is the lesser of \$90,000 or 100 percent of the participant's highest average annual compensation. Highest average annual compensation is the average compensation for the three consecutive calendar years of service with the department that produces the highest average. If the annual benefit begins before age 62, the maximum permissible annual benefit may not exceed the lesser of the actuarial equivalent of a \$90,000 annual benefit beginning at age 62 or the participant's highest average annual compensation. This actuarial adjustment may not reduce the \$90,000 limitation below \$75,000 if the benefit begins at*

or after age 55. If the annual benefit begins before age 55, the maximum permissible annual benefit may not exceed the greater of the actuarial equivalent of a \$75,000 annual benefit beginning at age 55 or the actuarial equivalent of a \$90,000 annual benefit beginning at age 62. To determine actuarial equivalence of a benefit beginning before age 62, the interest rate assumption is the rate adopted by the board of trustees in the proper administration of the fund, but not less than five percent. If the annual benefit begins after age 65, the benefit may not exceed the lesser of the actuarial equivalent of a \$90,000 annual benefit beginning at age 65 or the participant's highest average annual compensation. To determine actuarial equivalence of a benefit beginning after age 65, the interest rate assumption is the rate adopted by the board of trustees in the proper administration of the fund, but not more than five percent.

The \$90,000 limitation will be automatically adjusted to new dollar limitation amounts as determined by the commissioner of the Internal Revenue Service for subsequent calendar years effective as of January 1 of those years. The new limitation will apply to limitation years ending within the calendar year of the date of the adjustments.

(b) The factor of 2-1/2 ~~[two]~~ percent may be changed from 2-1/2 percent ~~[increased in increments of one-tenth of one percent]~~, provided that:

(1) the change ~~[increase]~~ is first approved by the board's ~~[an]~~ actuary; ~~[and]~~

(2) the change is approved by the board of trustees;

(3) the change ~~[increase]~~ applies only to active full-time firemen in the department at the time of the change ~~[increase]~~ and those who enter the department after the change ~~[increase]~~ is effective; and

(4) a person's vested accrued benefit cannot be decreased.

(c) The average monthly salary means the monthly average of the fireman's salary for the highest 36 months ~~[three calendar years]~~ during his period of service, excluding overtime pay and any temporary pay in higher classifications ~~[classification]~~.

(f) Any person who has been appointed and enrolled and either has attained the age of 50 years and served actively for a period of at least 25 years or has served actively for a period of 30 years, regardless of age, and whose service was performed in any rank, as a fully paid fireman, in one or more regularly organized fire departments in any city covered by this Act may retire early from that service or department and on retirement is eligible to receive from the fire fighter's relief and retirement fund of that city a reduced monthly pension equal to the pension described under Section 3(a) of this Act multiplied by a percentage determined by the board of trustees' actuary as the percentage necessary to provide an actuarially equivalent early retirement benefit.

**SECTION 4.** Sections 5(a) and (b), Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Any fireman who has served in the fire department of the city for a period of at least 10 years and who has contributed to the fire fighter's ~~[firemen's]~~ relief and retirement fund of the city for a period of at least 10 years, shall be entitled to receive a pension allowance at the age of 55 years, provided that the following conditions are met:

(1) on termination of employment, the fireman shall leave his contributions in the fund, and shall not be required to make any further contributions to the fund;

(2) the pension allowance shall be based on the monthly average of the fireman's salary for the highest 36 months ~~[three calendar years]~~ during the fireman's service excluding overtime pay and any temporary pay in higher classifications; and

(3) the pension allowance shall be calculated by the formula, as set out in Section 3(a) of this Act, in effect at the time the fireman terminated his employment.

(b) In the event a fireman who terminates employment with the fire department under this section dies either before age 55 or after attaining the age of 55 and beginning to receive benefits under this section, the fireman's surviving spouse is entitled to receive an immediate monthly benefit as described under Section 11(c) of this Act, if the spouse was married to the fireman:

(1) on the fireman's date of termination, if the fireman's death occurred before age 55; or

(2) when the fireman attained the age of 55, if the fireman's death occurred after attaining the age of 55 ~~[the fireman dies before the age of 55, or in the event the fireman dies after retirement under the provisions of this section, the fireman's surviving spouse shall receive 75 percent of the fireman's pension allowance provided for under this section]~~.

**SECTION 5.** Sections 6 and 8, Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 6. (a) If a person, serving as an active fireman duly enrolled in a regularly active fire department becomes ~~[totally and permanently]~~ disabled for either physical or mental reasons before meeting the requirements to qualify for a service retirement benefit described by Section 3(a) of this Act, the board of trustees shall, on his request, or without his request if it shall deem proper and for the good of the department, retire the person from active service and order that

he be paid from the fire fighter's ~~firemen's~~ relief and retirement fund of the city a monthly amount equal to his accrued unreduced pension as determined under ~~Subsection (a);~~ Section 3(a) of this Act. If a person becomes ~~totally and permanently~~ disabled as described in this section ~~while in or as a consequence of the performance of his duty~~, the amount to be paid shall not be less than the amount computed under Section 3(a) of this Act when 20 years of service is assumed. In order to receive these benefits for the first 2-1/2 years, the person must be unable to perform the duties of the person's occupation as a fire fighter. In order to receive these benefits after this 2-1/2-year period, the person must be unable to be gainfully employed. The board may require any person receiving disability benefits provided for in this Act to provide evidence of annual income. The evidence may be considered in any determination of ability to be gainfully employed. The board may, in its discretion, reduce or discontinue disability payments to a person on the failure or refusal of the person to provide such evidence as is directed by the board ~~[\$200 and if a person becomes disabled from any other cause, the amount to be paid shall not be less than \$200].~~

(b) If a person serving as an active fireman enrolled in a regularly active fire department becomes totally and permanently disabled from any cause for either physical or mental reasons after meeting the requirements to qualify for a service retirement benefit as described under Section 3(a) of this Act, the person is eligible to receive a disability pension under Subsection (a) of this section. In this Act "total and permanent disability" means an inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months ~~[When the disability of a person who has been granted a pension under Subsection (a) of this section ceases, the pension shall be discontinued and the person shall be restored to active service at not less than the same salary he received at the time of his retirement for disability].~~

(c) If, during the first 2-1/2 years, the fire fighter recovers to the extent that the person is able to perform the duties of the person's job as a fire fighter, the board of trustees may terminate the fire fighter's disability benefit and restore the person to active service at not less than the same rank the person held at the time of retirement for disability ~~[The provisions of this section shall apply even though the fireman was disabled while gainfully employed by someone other than the respective fire department for which he was employed].~~

(d) After the disabled fire fighter has received disability benefits from the fund for at least 2-1/2 years, the board of trustees may review the situation of the disabled fire fighter to determine the status of the person's disability. If the fire fighter has recovered to the extent that the person is able to be gainfully employed, the board of trustees may, at its discretion:

- (1) continue to pay a full disability benefit to the disabled fire fighter;
- (2) elect to pay the disabled fire fighter a partial disability benefit in an amount commensurate with the person's disability as determined by the board;
- (3) discontinue payment of a disability benefit to the fire fighter; or
- (4) discontinue payment of a disability benefit to the fire fighter and restore the fire fighter to active service at not less than the same rank the person held at the time of retirement for disability ~~[No person may receive retirement benefits under this section for any period of time during which that person received his full salary or compensation including payment received while on sick leave].~~

(e) The board of trustees may reinstate any disability benefit that has been previously terminated or reduced if the disabled fire fighter's condition has worsened due to the same cause for which the person was originally disabled.

(f) This section applies even if a fireman was disabled while gainfully employed by someone other than the fire department by which the person was employed.

(g) No person may receive retirement benefits under this section for any period during which that person received full salary or compensation, including payment received while on sick leave.

Sec. 8. No person may be retired ~~either~~ for ~~total or temporary~~ disability, except as provided in this Act, nor receive any allowance from the fund, unless and until there shall have been filed with the board of trustees, certificates of his disability or eligibility signed and sworn to by the person or by the city physician, if there be one, or if none, then by any physician selected by the board of trustees. The board of trustees, in its discretion, may require other or additional evidence of disability before ordering retirement or payment.

~~[If any fireman or one or more beneficiaries of a fireman shall be or become entitled to receive payments from a fund under the provisions of more than one section of this Act, the fireman or beneficiaries shall be entitled to and shall be required to elect one section under which such payments shall be computed and paid.]~~

SECTION 6. Section 10(a), Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The city shall contribute and appropriate each month to the fund an amount equal to 14 ~~[11.85]~~ percent of the monthly payroll, excluding overtime pay and any temporary pay in higher classification of the fire department of the city, and each full-time fireman shall pay into the pension fund 13.70 ~~[11.85]~~ percent of his monthly salary, excluding overtime pay and any temporary pay in higher classification. The governing body of the city may authorize the city to make an additional contribution to its *fire fighter's* ~~[firemen's]~~ relief and retirement fund in whatever amount the governing body of the city may fix. The firemen, by a majority vote in favor of an increase in contributions above the 13.70 ~~[11.85]~~ percent, shall increase each member's contribution above 13.70 ~~[11.85]~~ percent in whatever amount the pension board recommends.

**SECTION 7.** Section 11, Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), is amended by amending Subsections (a), (b), (c), (d), (e), and (f), adding a new Subsection (g), and redesignating current Subsection (g) as Subsection (l) to read as follows:

(a) If a fireman dies before retirement, the fireman's surviving spouse, *if married to the member on the member's date of death*, shall be entitled to receive an immediate ~~[a]~~ monthly pension, the amount of which, *if the spouse was two years younger than the member*, shall be 75 percent of the member's accrued unreduced pension as determined under Section 3(a) of this Act *when 20 years of service is assumed. If the relative ages of the fireman and the fireman's spouse were not as described by this subsection, the death benefit is a percentage of the member's accrued unreduced pension as described in Subsection (g) of this section.* ~~[The monthly pension payable to the spouse of a member who dies while in or as a consequence of the performance of duty shall be not less than \$100, and the monthly pension payable to the surviving spouse of a member who dies while not in the performance of duty shall be not less than \$100.]~~

(b) *On the death of a member who retired under Section 3(a) or (f) or Section 6(a) or (b) of this Act, the surviving spouse, if married to the person on the person's date of retirement, is entitled to receive an immediate monthly pension, if the spouse was two years younger than the member, equal to 75 percent of the pension being paid to the member. If the relative ages of the member and the member's spouse were not as described by this subsection, the death benefit is a percentage of the pension as described in Subsection (g) of this section.* ~~[Each child of a deceased member under the age of 18 is entitled to receive as a monthly pension \$50 if there is a surviving spouse entitled to a pension, or \$100 if not. The benefits paid to the minor children are in addition to the minimums provided for the surviving spouse, or any accrued amount that the surviving spouse may be entitled to.]~~

(c) *On the death of a fire fighter who terminated employment with the fire department after 10 or more years of service before age 55, the surviving spouse is entitled to receive an immediate monthly pension equal to 75 percent of the pension the member was either receiving or entitled to receive at age 55, if:*

(1) *the spouse was two years younger than the member; and*

(2)(A) *the spouse was married to the member on the date of the member's termination of employment, if the member's death occurred before age 55; or*

(B) *the spouse was married to the member when the member attained the age of 55, if the member's death occurred after the member attained the age of 55. If the relative ages of the member and the member's spouse were not as described by this subsection, the death benefit is a percentage of the amount the fire fighter was receiving or was entitled to receive at age 55 as described in Subsection (g) of this section.* ~~[On the death of a retired member, the surviving spouse, provided the spouse married the member prior to the member's retirement, is entitled to receive as a monthly pension, 75 percent of the pension being paid to the member. Each child of such deceased retired member under the age of 18 is entitled to receive as a monthly pension \$50 if there is a surviving spouse entitled to a pension, or \$100 if not.]~~

(d) *Each deceased member's child under the age of 18 is entitled to receive, if there is a surviving spouse, an immediate monthly pension equal to .375 percent of the fireman's average monthly salary at the time of death multiplied by the number of years of the fireman's service, assuming 20 years of service if service is less than 20 years. If there is no surviving spouse, each deceased member's child under the age of 18 is entitled to receive twice the amount that would be paid if there were a surviving spouse. The total amount of benefits being paid to the children of a deceased member may not exceed 37.50 percent of the member's average monthly salary at the time of death. Payments to a child shall be made whether or not a spouse survives and shall continue after the death of a surviving spouse but shall cease on the earliest of the child's death, marriage, or attainment of age 18.* ~~[If a deceased member or retired member leaves no surviving spouse or children eligible to receive a benefit hereunder but is survived by a~~

dependent parent, or parents, such dependent parent, or one of the surviving parents designated by the board of trustees, is entitled to receive as a monthly pension, the amount otherwise payable to the surviving spouse].

(e) *The spouse's monthly benefit is payable for life if the fireman was either retired or eligible to retire under Section 3(a) or Section 6(b) of this Act at the date of the fireman's death. Otherwise, the spouse's monthly benefit ceases on the earlier of the spouse's death or remarriage. After all payments cease, any excess of the member's total contributions at the date of the member's death over any retirement and death benefits [If a deceased member leaves no surviving spouse, children, or dependent parent eligible to receive a benefit as provided in this section, the member's total contributions, less any amount previously paid to the member,] shall be paid to the member's estate.*

(f) *If a deceased or retired member leaves no surviving spouse or children eligible to receive a benefit under this section but is survived by one or more dependent parents, the dependent parent, or one of the surviving parents designated by the board of trustees, is entitled to receive as a monthly pension, the amount otherwise payable to the surviving spouse. If a deceased member leaves no surviving spouse, children, or dependent parent eligible to receive a benefit as provided in this section, the member's total contributions, less any amount previously paid to the member, [Payments to a child shall be made whether or not a spouse survives and shall continue after the death of a surviving spouse, but shall cease on the earliest of such child's death, marriage, or attainment of age 18. Payment to a surviving spouse or parent shall cease upon the earlier of such person's death or marriage. After all payments cease, any excess of the member's total contributions at date of death over any disability and death benefits] shall be paid to the member's estate.*

(g) *The monthly benefit payable to the spouse of a deceased fire fighter is a percentage of the fire fighter's accrued unreduced pension. If the spouse is two years younger than the fire fighter, the percentage is 75 percent. Otherwise, the percentage will be determined so that the present value of an annuity payable for the life of the fire fighter with the determined percentage of the benefit payable on the fire fighter's death for the remaining life of the spouse is equal to the present value of an annuity payable for the life of the fire fighter with 75 percent of the benefit payable on the fire fighter's death for the remaining life of a spouse two years younger than the fire fighter. In no event may the spouse's benefit exceed 100 percent of the fire fighter's accrued unreduced pension. The present values are to be computed on the basis of actuarial tables and interest rates adopted by the board of trustees in the proper administration of the fund. The determination of the percentages may be made assuming a single fire fighter age representative of the average age at retirement among the city's fire fighters.*

(l) ~~(g)~~ *The provisions of this section shall apply even though the death was caused while the member was gainfully employed by someone other than the respective fire department for which he was employed.*

**SECTION 8.** Sections 14, 16, 18, 19, and 21, Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 14. The board of trustees, in its discretion, at any time may cause any person retired for disability under the provisions of this Act to appear and undergo a medical examination by the city physician or any other physician appointed or selected by the board of trustees for that purpose, and the result of the examination and report by the physician shall be considered by the board of trustees in determining whether the relief in the case shall be continued, increased (if less than the maximum provided herein), decreased, or discontinued *in accordance with Sections 6(a), (b), (c), and (d) of this Act.* Should any person receiving relief under the provisions of this Act, after due notice from the board of trustees to appear and be reexamined, unless excused by the board, fail to appear or refuse to submit to reexamination, the board of trustees is authorized, in its discretion, to reduce or entirely discontinue relief.

Sec. 16. In computing the time or period for retirement for length of service as provided in this Act, any time served in the armed forces of the nation during war or national emergency shall be construed as continuous service. If a person is out of service less than five years for another reason, credit shall be given for prior service, but deduction made for the length of time out of service. If out of service more than five years, no previous service shall be counted, provided however, that if a fireman is out of service over five years through no fault of his own and subsequently returns to the department, this period of *previous service* time shall not be counted against him insofar as his retirement time is concerned. He shall not be entitled to any disability benefits on account of any sickness or injury received before the statement was filed. *A fire fighter may not be granted service credit for time during which the person receives a disability pension from the fund.*

Sec. 18. (a) The board of trustees of a fully paid fire department may engage and employ professional investment counselors to advise and assist the board in the investment of the assets

of the fund. The investment counseling service must be provided by a nationally known organization whose business functions include rendering continuous investment advisory service to public pension and retirement funds. The city may pay the entire cost of this counseling service; if not paid by the city, the cost may be paid from the assets of the fund.

(b) The board shall appoint investment managers for the fund by contracting for professional investment services with one or more organizations, which may include a bank if it has a trust department, that are in the business of managing investments.

(c) To be eligible for appointment under Subsection (b) of this section, an investment manager must be:

- (1) registered under the federal Investment Advisors Act of 1940;
- (2) a bank as defined by that Act; or
- (3) an insurance company qualified to perform investment services under the laws of more than one state.

(d) In a contract made under Subsection (b) of this section, the board shall specify any policies, requirements, or restrictions, including criteria for determining the quality of investments and for the use of standard rating services, that the board adopts for investments of the fund.

(e) The city may pay all or part of the cost of professional investment management services under a contract under Subsection (b) of this section. Any cost not paid directly by the city is payable from assets of the fund.

(f) The board may at any time and shall at frequent intervals monitor the investments made by any investment manager for the fund. The board may contract for professional evaluation services to fulfill this requirement.

(g) The city may pay all or part of the cost of professional evaluation services under Subsection (f) of this section. Any cost not paid directly by the city is payable from assets of the fund.

(h) The board may enter into an investment custody account agreement designating a state or national bank as custodian for all assets allocated to or generated under the investment management contract.

(i) Under a custody account agreement, the board shall require the designated bank to perform the duties and assume the responsibilities for assets under the contract for which the agreement is established.

(j) The city may pay all or part of the cost of bank services under a custody account agreement under Subsection (h) of this section. Any cost not paid directly by the city is payable from assets of the fund.

(k) An investment manager other than a bank having a contract with the fund under Subsection (b) of this section may not be a custodian of any assets of the fund.

(l) When demands of the fund require, the board shall withdraw from a custodian of fund assets money for use in paying benefits to members and other beneficiaries of the fund and for reasonable expenses of administering the fund, as approved by the board.

Sec. 19. (a) The board of trustees of a fire fighter's [firemen's] relief and retirement fund coming under the provisions of this Act shall [may] employ an actuary who may be the consultant and technical advisor to the board regarding the operation of the fund and may perform such duties as may be required by the board [no more than once every three years and pay his compensation out of the pension fund].

(b) The actuary shall make a valuation at least once every two years of the assets and liabilities of the fund on the basis of assumptions and methods that are reasonable in the aggregate, considering the experience of the program and reasonable expectations, and that, in combination, offer the actuary's best estimate of anticipated experience under the program.

(c) On the basis of the valuation, the actuary shall make recommendations to the board to ensure the actuarial soundness of the fund. In making recommendations, the actuary shall define each actuarial term and enumerate and explain each actuarial assumption used in making the valuation. This information must be included either in the actuarial study or in a separate report made available as a public record.

(d) The board shall file with the State Pension Review Board a copy of each actuarial study and each separate report made as required by law.

(e) An actuary employed under this section must be a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the federal Employee Retirement Income Security Act of 1974.

(f) The city may pay all or part of the cost of the actuarial services. Any cost not paid directly by the city is payable from assets of the fund.

Sec. 21. The board of trustees of a fully paid fire department shall [may] engage and employ a certified public accountant or firm of certified public accountants to perform an audit of the fire fighter's [firemen's] relief and retirement fund at least annually [such times and intervals as it

~~may deem necessary~~]. The city may pay the entire cost of such audits; if not paid by the city, the cost may be paid from the assets of the fund.

**SECTION 9.** Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), is amended by adding Section 23 to read as follows:

*Sec. 23. The city shall pick up the fire fighter contributions to the fund required by Section 10(a) of this Act, or such contributions as are authorized by vote as provided by Section 10(a), whichever are higher. Fire fighter contributions will be picked up by a reduction in the monetary compensation of the affected fire fighters. Contributions picked up shall be treated as employer contributions in accordance with Section 414(h)(2), federal Internal Revenue Code, for the purpose of determining tax treatment of the amounts under the federal Internal Revenue Code. These contributions are not includable in the gross income of a fire fighter until the time that they are distributed or made available to the fire fighter. Fire fighter contributions picked up as provided by this section shall be deposited to the individual account of each affected fire fighter and shall be treated as the monthly contributions of each individual fire fighter for all other purposes of this Act. This section takes effect on January 1, 1986, and remains in effect as long as the plan covering fire fighters of the city is a qualified retirement plan under Section 401(a), federal Internal Revenue Code, and its related trust is tax exempt under Section 501(a), federal Internal Revenue Code, or until a time that the board by a majority vote elects to discontinue the pickup of fire fighter contributions to the city.*

**SECTION 10.** Section 10(h), Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), is repealed.

**SECTION 11.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on April 25, 1985, by a non-record vote; passed by the Senate on May 15, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 14, 1985

Effective: August 26, 1985