

## Tex. Rev. Civ. Stat. Art. 6243g-4

This document is current through the 2017 Regular Session and 1st C.S., 85th Legislature

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### **Sec. 6243g-4. Police Officers Pension System in Certain Municipalities.**

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**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 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 million.

**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.

**Sec. 2. Definitions.** In this article:

- (1) "Active member" means an employee of the city within 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 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.
- (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.
- (4) “Board” means the board of trustees of the pension system.
- (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) “Code” means the federal Internal Revenue Code of 1986, or any successor, as amended.
- (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.
- (6) “Dependent” means a dependent child or a dependent parent.
- (7) “Dependent child” means a deceased member’s unmarried natural or adopted child who:
  - (A) has not attained age 18;
  - (B) has attained age 18 but not age 24 and is attending school on a full-time basis; or
  - (C) has attained age 18 and is permanently disabled as the result of a disability that began before the child attained age 18.
- (8) “Dependent parent” means a natural parent of a deceased member or an adoptive parent who adopted the member before the member attained age 18 and at least 50 percent of whose support was received from the member during the one-year period preceding the date of death of the member.
- (9) “DROP” means the deferred retirement option plan described by Section 14 of this article.
- (10) “Employee” means an individual who holds a classified position in the police department of a city subject to this article.
- (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 or not, but who terminated active member status and received a refund of member contributions.
- (12)** “Fund” means the fund originally established by Chapter 76, Acts of the 50th Legislature, Regular Session, 1947 (Article 6243g-1, Vernon’s Texas Civil Statutes).
- (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 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)** “Member” means an active member, inactive member, or retired member, as the context may require. The term does not include a former member.
- (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)** the age at which the member attains 20 years of service; or
    - (ii)** 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)** “Normal retirement date” means the date at which a member is eligible for an immediate service pension under Section 12 of this article.
- (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)** “Pension” means a monthly payment for life from the fund to a retired member.
- (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.

- (18) "School" means any public or private school through the 12th grade or any trade school, junior college, college, or university beyond the 12th grade that is accredited by a generally recognized accrediting authority.
- (19) [Repealed.]
- (20) "Separation from service" means cessation of work for the police department of a city subject to this article, whether caused by death, discharge, resignation, or transfer to an unclassified position.
- (21) "Service" means the period of time a person is employed in the police department of a city subject to this article, except for any period of DROP participation, and includes any period that the person is receiving a disability pension under Section 15 of this article or is on a military leave of absence described by Section 23 of this article, but only if the person returns to active service after the period of disability or military leave. The term does not include periods in which a person is suspended from duty without pay, on leave of absence without pay, or separated from service.
- (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, for a period of at least five consecutive years.
- (22-a) "Survivor" means a surviving spouse, a dependent child, or a dependent parent.
- (23) [Repealed.]
- (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.

**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.

**Sec. 3. Pension board.**

- (a) The board of trustees of the pension system that was created under Chapter 76, Acts of the 50th Legislature, Regular Session, 1947 (Article 6243g-1, Vernon's Texas Civil Statutes), and that operates under Section 67, Article XVI, Texas Constitution, continues to be responsible for the general administration, management, and operation of the pension system, including the direction of investment and oversight of the fund's assets.
- (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); and

- (4) the director of finance of the city or the person discharging the duties of the director of finance, or the director's designee.
- (c) The terms of office of the board members elected as described by Subsection (b)(2) of this section shall be three years, beginning on January 1 and ending on December 31, with one board member being elected every year at an election called by the board and held in December. If a vacancy occurs among the three elected active board members, the board shall hold an election within 60 days after the date the vacancy occurred. At that election, an active member shall be elected to serve for the remainder of the term of the vacant position or for a full term if the term of the board member that caused the vacancy would have ended in that year.
- (d) The terms of office of the board members elected as described by Subsection (b)(3) of this section shall be three years, beginning on January 1 and ending on December 31. Beginning in 1999, and each third succeeding year, one board member shall be elected at an election called by the board and held in December. Beginning in 2000, and each third succeeding year, a second board member shall be elected at an election called by the board and held in December. If a vacancy occurs among the two elected retired members of the board, the board shall hold an election within 60 days after the date the vacancy occurred. At that election, a retired member shall be elected to serve for the remainder of the term of the vacant position or for a full term if the term of the board member that caused the vacancy would have ended in that year. A board member who is a retired member and who was appointed to the board before January 1999 shall serve the remainder of the board member's term. On expiration of the appointed term, the appointed board member is eligible to run for the board position described by Subsection (b)(3) of this section in the same manner as any other retired member.
- (e) A board member vacates the member's seat on the board if the member is removed under Section 7 of this article or ceases to meet the qualifications for the seat.
- (f) An individual who is an officer or employee of any employee organization or retiree organization or an employee of the pension system is prohibited from being elected to the board, appointed to the board, or in any other way serving as a member of the board.
- (g) Each board member shall, within 30 days after taking office, take an oath of office:
- (1) to diligently and honestly administer the affairs of the pension system by:
    - (A) being loyal exclusively to all members;
    - (B) being prudent in protecting and managing the trust's property;
    - (C) defending the trust's assets; and
    - (D) acting under the terms of the plan; and
  - (2) to not knowingly violate, or willingly permit to be violated, this article.
- (h) Notwithstanding any other provision in this section, if a candidate for an elected trustee position is unopposed in an election, the election may not be held for that position. The board shall certify the candidate as elected to the board on the executive director's certification that the candidate is eligible to be a trustee under this section and is unopposed for election. The certified candidate shall take the oath of office as soon as practicable in January, after being declared elected in December.
- (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.

#### **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.

(b)

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 a month for each affected board member.

**Sec. 5. Officers; meetings; employees.**

(a) The board annually shall elect from its active and retired membership a chairman. The board also annually shall elect from its membership a vice chairman and a secretary.

(b) The board may hire one or more employees whose positions and salaries shall be set by the board and who, acting under the direction of the board, shall keep all of the records of and perform all of the clerical services for the pension system.

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

(c) The board may employ professional investment managers and advisors to manage, or advise the board regarding the management and investment of, the fund. These professional services may include investment counseling, evaluation of fund performance, investment research, and other comparable services.

(d) The board may employ one or more actuaries, legal counsel, accountants, or other professionals and pay the compensation for these services from the fund.

(e) The board shall hold regular monthly meetings at the time and place it designates by resolution. The chairman, secretary, or any four board members may call a special meeting of the board.

(f) Each board member is entitled to one vote.

(g) Notice shall be given to all board members, unless waived in writing, of any proposed meeting, by any method reasonably calculated to provide adequate notice of the meeting. The notice may be delivered by mail, in-hand personal delivery, or facsimile or other electronically transmitted notice with recordation of receipt by the receiving board member. If all board members attend a meeting, however, failure to give notice as required by this subsection is excused.

(h) The board shall keep accurate minutes of its meetings and records of its proceedings.

**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.

**Sec. 6. General powers and duties.**

- (a) The board shall retain control over all money collected or to be collected for the pension system, shall keep separate from all other funds all money for the use and benefit of the system, and shall keep a record of all claims, receipts, and disbursements in one or more books maintained for that purpose.
- (b) The board shall establish the policies and procedures for disbursements from the fund that it considers appropriate.
- (c) The board may reimburse a board member or an officer or employee of the board for liability imposed as damages because of an alleged act, error, or omission committed in the individual's capacity as a fiduciary or co-fiduciary of assets of the fund or as an officer or employee of the board and for costs and expenses incurred by a fiduciary or co-fiduciary officer or employee in defense of a claim of an alleged act, error, or omission, or may purchase from an insurer licensed to do business in this state one or more policies of insurance that provide for the reimbursement. However, no reimbursement may be provided and no policy of insurance may be purchased under this subsection that would provide for reimbursement of a board member or an officer or employee of the board for liability imposed or expenses incurred because of the individual's personal dishonesty, fraudulent breach of trust, lack of good faith, intentional fraud or deception, or intentional failure to act prudently. The cost of reimbursement or insurance coverage purchased under this subsection shall be paid from money in the fund.
- (d) The board shall administer the pension system consistent with the applicable provisions of the code.
- (e) The board is vested with the power to adopt for the administration of the pension system written rules and guidelines consistent with this article, including rules or guidelines to ensure that the pension system and the fund meet the qualification requirements of the code and regulations and rulings issued under the code and that are applicable to governmental plans.
- (e-1) The board may sue on behalf of the pension system in any court with proper subject matter jurisdiction regardless of location. The board has sole authority to litigate matters on behalf of the pension system.
- (f) The board has full discretion and authority to:
  - (1) administer the pension system;
  - (2) 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 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 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.

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

#### **Sec. 7. Removal of board member.**

- (a) An elected board member may be removed from the board either by a vote of the membership of the pension system at a removal election initiated and held as provided by this section or by a vote of five board members together with a decision to remove the board member made by a hearing examiner as provided by this section.
- (b) An appointed member of the board may be removed from the board by the administrative head of the city.
- (c) To initiate an election for removal of an elected board member, a petition for removal signed by at least one-third of the members and retired members of the pension system must be filed with the board not later than the 45th day after the date the first signature on the petition is obtained. Each signature must be legible and accompanied by the signer's printed name and employee payroll number, if any. A member's payroll number may not be publicly disclosed. A removal election must be held not later than the 30th day after the date the board certifies that a petition for removal satisfies the requirements for a petition under this subsection. The results of a removal election are binding only if a majority of the active and retired members participate in the election. A board member's service on the board ends on the declaration by the board that a majority of those voting in the removal election voted in favor of removal.
- (d) On the date the board makes a declaration under Subsection (c) of this section, the board shall call a special election to be held not earlier than the 20th or later than the 60th day after that date to fill the vacancy for the unexpired term of the person who was removed. The person who was removed is not eligible to run in the special election but is eligible to run in all subsequent board elections.
- (e) Except as otherwise provided by Subsections (a) and (b) of this section, a board member may be removed only as provided by this subsection and Subsections (f) and (g) of this section. After an affirmative vote of the board to remove a board member under Subsection (a) of this section, the board or its designee and the board member whose removal is proposed shall attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner not later than the 10th day after the date the board votes to

remove the board member, on the next workday the parties involved shall request a list of seven qualified neutral arbitrators from the American Arbitration Association of the Federal Mediation and Conciliation Service or another arbitration organization with similarly stringent standards. The board member whose removal is proposed and the board or their designees may agree on one of the seven neutral arbitrators on the list. If the parties fail to agree before the 26th day after the date the board first votes to remove the board member, each party or the party's designee shall alternate striking a name from the list, and the name remaining is the hearing examiner. The board member whose removal is proposed or the board member's designee is entitled to strike the first name. If the 25th day falls on a Saturday, Sunday, or legal holiday, the parties must strike names from the list on the next workday. The parties or their designees must agree on a date for the hearing that is within the period prescribed by Subsection (f) of this section.

- (f) The hearing must begin as soon as the hearing examiner can be scheduled but not later than the 60th day after the date the board votes to remove the board member. In a hearing conducted under this subsection, the hearing examiner may issue subpoenas. The parties may agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure, the hearing examiner must issue a decision not later than the 10th day after the date the hearing ends. Unless operating under an expedited hearing procedure, the hearing examiner shall make a reasonable effort to issue a decision not later than the 30th day after the date the hearing ends. The hearing examiner's inability to meet the time requirements imposed by this subsection does not affect the hearing examiner's jurisdiction or final decision. The final decision of the hearing examiner may be either to remove the board member or not to remove the board member from the board. The hearing examiner's fees and expenses shall be paid by the pension system. The costs of a witness shall be paid by the party who calls the witness.
- (g) If the hearing examiner's decision is to remove a board member, the person removed is entitled to an opportunity to have the hearing examiner's decision reviewed. To have the decision reviewed, not later than the 30th day after the date of a decision under Subsection (f) of this section, the person removed must obtain signatures of at least one-third of the active and retired members of the pension system requesting an election to overrule the removal decision under Subsection (f). If the 30th day is a Saturday, Sunday, or legal holiday, the following workday is considered the 30th day. Each signature must indicate the signing date beside the signature, be legible, and be accompanied by the signer's printed name and employee payroll number, if any. A member's payroll number may not be publicly disclosed. The board shall verify the list not later than the 10th day after the date the board receives it. Not later than the 30th day after the date the board has verified the signatures, the board shall hold an election among the active and retired members. If a majority of the votes cast at an election in which a majority of the active and retired members of the pension system participate favor overruling the hearing examiner's decision, the board member shall be reinstated. If a majority do not vote to overrule the decision to remove a board member, a replacement election must be held not later than the 30th day after the date of the preceding election.
- (h) During the period beginning on the date of the board vote to remove a board member and ending on the date the board member is reinstated under this section, the person's privileges as a board member, including voting privileges, are suspended.

#### **Sec. 8. Contributions by members.**

- (a) Subject to adjustments authorized by Section 9D or 9E of this article, each active member of the pension system shall pay into the system each month 10.5 percent of the member's 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) 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.

(b) [Repealed.]

#### **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.
- (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 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.

#### **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.

**Sec. 10. Investment of surplus.**

- (a) If the board determines that a surplus of funds exists in an amount exceeding the current demands upon the pension system, the board shall invest the surplus funds in the manner provided for by Chapter 802, Government Code.
- (b) The board may select an investment manager or investment advisor if the board determines the service is desirable. Selection of managers or advisors must be made from firms that have made presentations in person or in writing to the board.
- (c) The board may terminate a contract with an investment advisor at any time. The board may terminate a contract with an investment manager on notice the board considers appropriate. A contract may not require the pension system to pay a penalty for early termination. The costs of investment management or advisory services shall be paid from the fund.

**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.

**Sec. 11. Service credit.**

- (a) A member who returns to service after an interruption in service is eligible for credit for the previous service to the extent provided by Section 17 or 19 of this article.
- (b) Notwithstanding Subsection (a) of this section, if a member has withdrawn the contributions made during any previous period of service, the previous period of service may not be counted in determining years of service unless the contributions are repaid to the pension system in accordance with Section 17 of this article.
- (c) A member may not have any service credited for unused sick leave, vacation pay, 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.
- (d) The board shall determine the prior service to be credited to each employee of the police department who becomes an active member of the pension system. The board shall rely on the personnel records of the city or the police department in determining prior service credits.

**Sec. 12. Retirement; amount of pension; annual adjustments.**

- (a) A member who separates from service after attaining normal retirement age 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 the pension system 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 age. An individual may not receive a pension under this article while still an active member. 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, is equal to the sum of:
    - (A) 2.75 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 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.

- (b-1)** A member who 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-3)** 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 pension payable to a 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 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-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 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 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
- .
- (f)** [Repealed.]
- (g)** Notwithstanding anything to the contrary in this article, service pensions that began before May 1, 2001, shall continue to be paid in accordance with applicable prior law, subject only to the adjustments that are specifically provided by this section.
- (h)** Final average 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.



- (i) The computation of final average 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.

**Sec. 13. Resumption of service as department head after retirement.**

- (a) The pension system shall suspend all pension payments to a retired member who has separated from service and is subsequently appointed as the department head of the police department. The suspension of payments begins on the effective date of the person's appointment.
- (b) Pension benefits based on the person's previous period of service do not accrue during the period of pension payment suspension described by Subsection (a) of this section, but the person again becomes an active member during this period, and contributions of the city and the department head for the subsequent service are payable during the period. The department head retains credit for all previous service and acquires credit for the subsequent service unless the department head is or becomes a DROP participant.
- (c) Once the department head again separates from service, pension benefits under this article shall resume based on both periods of service.

**Sec. 14. Deferred retirement option plan.**

- (a) In this section "DROP benefit" means the total amount credited to a member's notional DROP account, payable as described by this section, plus a monthly retirement pension.
- (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.
- (c) The monthly service pension or 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 member had separated from service and begun receiving a pension on the effective date of the member's DROP election and the 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 increases in the member's pay that occur on or after the effective date of the member's entry into DROP may not be used in computing the member's monthly service pension; and
  - (2)** any cost-of-living adjustments that occur on or after the effective date of the member's entry into DROP 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 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. 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.
- (f)** [Repealed.]
- (f-1)** If a DROP participant separates from service due to death, the participant's surviving spouse is eligible to receive benefits under Sections 16 and 16A of this article and the surviving spouse may elect to receive the DROP benefit in the form of an additional annuity over the life expectancy of the surviving spouse.
- (g)** In lieu of receiving a lump-sum DROP benefit on separation from service, a retired member who has been a DROP participant or, if separation from service was due to the DROP participant's death, the surviving spouse may leave the retired member's DROP account with the pension system, in which case interest will be credited to the DROP account in the manner described by Subsection (e) of this section.
- (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.

- (j) A retired member who is a DROP participant, or a surviving spouse, may elect to receive distribution of the DROP account in a one-time lump-sum payment or in any other form of distribution that is approved by the board and satisfies the requirements of Section 401(a)(9) of the code.
- (k) If a retired member who is 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 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.
- (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.
- (m) [Repealed.]

**Sec. 15. Disability benefits.**

- (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 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, 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 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 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 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 to receive a disability pension after November 23, 1998, is eligible 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) 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 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, 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.
- (f) [Repealed by Acts 2003, 78th Leg., ch. 1267, § 24.]
- (g) For purposes of this section, a member is totally and permanently incapacitated from performing duties if the member is prevented by a physical or mental injury or illness from performing duties in the police department after any reasonable accommodation offered by the police department and this condition is expected to be permanent.
- (h) [Repealed.]
- (i) Effective for payments that become due after April 30, 2000, and instead of the disability benefit provided by Subsection (a) 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 pay determined as of the date of retirement, and the member's DROP balance, if any.
- (j) [Repealed.]
- (k) A benefit payment that becomes due under this section is effective on the later of the first day the disabled member leaves the payroll of the city or the date the member signs the application for a disability pension.
- (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 (1)(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.

**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. 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 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 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, on behalf of the dependent child, or directly to a dependent child described by Section 2(7)(B) of this article, and if there is no spouse eligible for an allowance, the sum a surviving spouse would have received, to be divided equally among all 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 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 member of the pension system who has not completed 20 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 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 pay at the time of death. The monthly benefit may not be less than:
  - (1) 27.5 percent of the member's final average 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 to receive immediate benefits computed in accordance with Subsection (b) of this section, except that the benefit is equal to 100 percent of the member's final average pay, computed as of the date of death.
- (f) A surviving spouse who receives a survivor's benefit under this article is eligible 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 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 who is eligible 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 to receive further monthly payments with respect to the member, the monthly payments shall continue to be made in the same amount as the last monthly payment made to the member or survivor 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 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. The member's estate or a beneficiary who is not a survivor or dependent is not eligible 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.

**Sec. 16A. Beneficiary designation for DROP.**

- (a) Except for the marriage requirement described by Section 16(a) of this article, 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 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.

**Sec. 17. Termination of employment; refunds; reemployment.**

- (a) When any active member of the pension system separates from service, either voluntarily or involuntarily, before becoming eligible for an immediate service retirement or disability pension, the member ceases to be an active member of the pension system.
- (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 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 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.
- (c) The board shall notify each member of the pension system of the right to a refund as authorized by this section.
- (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. 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 to apply for and receive the refund authorized by this section.
- (f) If a person who separates from service and receives a refund is subsequently reemployed as an employee of the police department, the person shall be reinstated as an active member of the pension system. Prior service of the active member with the police department may not be counted toward a retirement pension unless the member pays to the pension system, not later than the 90th day after the date of a subsequent separation from service, an amount equal to any contributions previously refunded to the member under this section. Except as provided by Section 18 of this article, a person is not eligible to repay any withdrawn contributions unless the person is reemployed by the police department of the city for which the prior service was performed.
- (g) A member who is contesting an indefinite suspension action may, on application to the board, receive a return of the member's contributions and be separated from service on receipt of the contributions; otherwise, a suspended member is considered to have a separation from service when a final decision of the arbitrator adverse to the member is rendered.
- (h) Subject to procedures adopted by the board, the pension system shall accept a direct cash transfer of funds from another plan that is an eligible rollover distribution within the meaning of Section 402(f)(2)(A) of the code. The transfer shall be accepted only for the purpose of repaying contributions the member has previously withdrawn or for other purposes expressly authorized by the board's procedures.
- (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.

**Sec. 18. Employment by another department.**

(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;
- (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.

(b) [Repealed.]

(c) [Repealed.]

(d) Classified police officers who were formerly employed by a city as park police, airport police, or marshals, who were involuntarily transferred from another city department to the police department of the city, and who are current active members of the pension system shall have the option to receive credit with the pension system for previous service with another pension system of the city, provided that a person may not receive service credit for both pension systems for the same period of service.

**Sec. 19. Persons rejoining or transferred by city; service credit; double benefits; return to service.**

- (a) An employee of the city who has retired under this article or under former law governing the pension system and is or has been transferred by action of the city to a classified position in a police department included in the pension system again becomes an active member of the pension system as of the effective date of the transfer.
- (b) A person who rejoins the pension system under this section is eligible 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.
- (c) After a transfer described by this section, contributions of the city and the active member become payable as for other active members of the pension system.
- (d) When a member who has transferred as described by this section subsequently retires, the retired member is eligible for 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.
- (e) If a retired member receives both pension benefits from the pension system and a salary from a classified position in the police department that cover the same period, the retired member shall repay to the pension system the pension benefits received during that period. The board shall withhold payment of pension benefits under this article if it is determined that a retired member is receiving both pension benefits from the fund and a salary from the police department that cover the same period. On request of the board, the city attorney or a private attorney chosen by the board shall file suit in a court of competent jurisdiction to recover pension benefits owed to the pension system under this subsection.
- (f) This article does not authorize the return to service with a police department or the resumption of active membership in the pension system by a retired member except as specifically provided by Section 13 or 14 of this article or this section.



**Sec. 20. Donations.** The pension system may accept gifts and donations, and the gifts and donations shall be added to the fund for the use of the pension system, including, but not limited to, for use for education programs and the related administrative expenses of the programs.

**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.

**Sec. 22. Legal Advice.** The city attorney of the city shall handle all legal matters for the pension system that are referred by the board without additional compensation for the service. The board may, however, as it considers necessary, employ outside legal counsel to the exclusion of, or to assist, the city attorney and pay reasonable compensation for the service of the additional legal counsel from the fund.

**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 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 to receive a benefit in the same manner as described by Section 16(c) of this article.

**Sec. 24. Actions for funds misapplied.**

- (a) The board may recover by civil action from any offending party or from the party's bondsman, if any, any money paid out or obtained from the fund through fraud, misrepresentation, theft, embezzlement, or misapplication and may institute, conduct, and maintain the action in the name of the board for the use and benefit of the fund.
- (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 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.

**Sec. 25. Federal tax qualification of fund.**

- (a) The fund described by this article is intended to qualify under Section 401(a) of the code and is for the exclusive benefit of the members and their survivors. No part of the corpus or income of the fund may ever be used for, or diverted to, any purpose other than the benefit of members and their survivors as provided by this article.
- (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 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 who receives an eligible rollover distribution is eligible to have that distribution transferred directly to another eligible retirement plan of the distributee'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 taken into account for any purpose under this article 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.
- (e) Accrued benefits under this article become 100 percent nonforfeitable for a member on the date the member has completed 10 years of service. If the pension system or the fund is terminated or partially terminated, or city contributions to the fund are discontinued completely, there may not be a reversion of funds to the employer. On complete or partial termination or discontinuance of city contributions, the fund held by the pension system shall be used exclusively for benefits for members and their surviving spouses and dependents, and the members' rights to the benefits, to the extent funded, shall be nonforfeitable if not already nonforfeitable under this subsection.
- (f) Amounts representing forfeited nonvested benefits of terminated members may not be used to increase benefits payable from the fund.
- (g) Distribution of benefits must begin not later than April 1 of the year following the calendar year during which the member eligible for 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.
- (i)** To the extent permitted by law, the board may adjust the benefits of retired members and survivors by increasing any benefit that was reduced because of Section 415 of the code. If Section 415 of the code is amended to permit the payment of amounts previously precluded under that section, the board may adjust the benefits of retired members or their surviving spouses or dependents, including the restoration of benefits previously denied. Benefits paid under this subsection are not considered as extra base salary earned after retirement but as the delayed payment of benefits earned before retirement.
- (j)** The board may make any change in this article to the extent that the change is necessary to assure compliance with the qualification requirements of Section 401 of the code or any other federal law.

**Sec. 26. Excess benefit plan.**

- (a)** A separate, nonqualified, unfunded excess benefit plan is created outside the fund.
- (b)** In this section:
  - (1)** “Excess benefit plan” or “plan” means the separate, nonqualified, unfunded excess benefit plan created by this section for the benefit of eligible members, as amended or restated from time to time, that is intended to be a “qualified governmental excess benefit arrangement” within the meaning of Section 415(m) of the code.
  - (2)** “Qualified plan” means the pension system and any other plan maintained by the city for the exclusive benefit of some or all of the members of the pension system that has been found by the Internal Revenue Service to be qualified or has been treated by the city as a qualified plan under Section 401 of the code.
  - (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 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.
  - (4)** “Excess benefit participant” means any retired member whose retirement benefits as determined on the basis of all qualified plans without regard to the limitations of Section 25(b) of this article and comparable provisions of other qualified plans would exceed the maximum benefit permitted under Section 415 of the code.
  - (5)** “Unrestricted benefit” means the monthly retirement benefit a retired member and the spouse, dependent child, or dependent parent of a retired member or deceased member would have received under the terms of all qualified plans except for the restrictions of Section 25(b) of this article and any similar provisions of any other qualified plans designed to conform to Section 415 of the code.
- (c)** An excess benefit participant who is receiving benefits from the pension system is eligible for 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 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 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 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.

- (f) The board shall administer the plan, and the board's designee shall also carry out the business of the board with respect to the plan. Except as otherwise provided by this section, the rights, duties, and responsibilities of the board and the board's designee are the same for the plan as for the funds of the pension system.
- (g) The consultants, independent auditors, attorneys, and actuaries selected to perform services for the fund also shall perform services for the plan, but the fees for their services may not be paid by the fund. The actuary engaged to perform services for the fund shall advise the board of the amount of benefits that may not be provided from the fund solely by reason of the limitations of Section 415 of the code and the amount of employer contributions that will be made to the plan rather than to the fund.
- (h) Contributions may not be accumulated under the plan to pay future retirement benefits. Instead, each payment of city contributions that would otherwise be made to the fund under Section 9 of this article shall be reduced by the amount determined by the board or its designee as necessary to meet the requirements for retirement benefits under the plan, including reasonable administrative expenses, until the next payment of city contributions is expected to be made to the pension system. The city shall then 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 board or its designee shall satisfy the obligation of the plan to pay retirement benefits from the employer contributions so transferred for that month.
- (i) Employer contributions otherwise required to be made to the pension system under Section 9 of this article and 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 permitted under the qualified plan. Employer contributions made to provide retirement benefits under this section may not be commingled with the money of the fund forming part of the pension system or any other qualified plan.

**Sec. 27. Certain written agreements between pension system and city authorized.**

- (a) Notwithstanding any law to the contrary, the board or a designee of the board is responsible for representing the interests of the pension system and all pension issues and benefits affecting the pension system or its members and beneficiaries under this article. The board may enter into a written agreement with the city on behalf of the pension system and members and beneficiaries of the pension system if the agreement is approved by the board and signed by the mayor and the board or the board's designee.
- (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 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.

**Sec. 28. Nonreduction, nonalienation, and nonassignment of benefits.**



- (a) No portion of the funds held by the pension system, either before or after an order for its disbursement by the board, and no amounts due or to become due to any member or survivor under this article may be held, seized, taken, subject to, detained, or levied on by virtue of any execution, attachment, garnishment, injunction, or other writ, and no order or decree, and no process may issue out of or by any court of this state for the payment or satisfaction, in whole or in part, out of the funds held by or due from the pension system, of any debt, damage, claim, demand, or judgment against any member, survivor, dependent, or any other person.
- (b) No part of the funds or any claim to the funds may be directly or indirectly assigned or transferred. Any attempt to transfer or assign any part of the funds or a claim to the funds is void.
- (c) The funds shall be held, kept, and disbursed for the purposes provided by this article, and for no other purpose, except that a retired member, survivor, or dependent, at the person's discretion, may have deducted from the person's pension the monthly premium cost of any group insurance program in which the retired member is participating.
- (d) A benefit payable under this article may not be reduced or discontinued for any person except under the terms applicable to the benefit at the time the person becomes eligible to receive the benefit.
- (e) This section does not prevent the division of the benefits accrued by a member under any court order determined by the board or its designee to be a qualified domestic relations order and the payment of a share of a retired member's benefits or contributions to an alternate payee in accordance with the order.

**Sec. 29. Confidentiality of Information About Members or Beneficiaries.**

- (a) Information contained in a record that is in the custody of a fund established under this article concerning an individual member, retiree, survivor, or beneficiary is confidential for purposes of Sections 552.101, 552.102, and 552.117, Government Code. The information may not be disclosed in a form that identifies a specific individual unless the information is disclosed to:
  - (1) the individual;
  - (2) the individual's attorney, guardian, executor, administrator, or conservator; or
  - (3) a person who has written authorization from the individual to receive the information.
- (b) This section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree, deceased member, survivor, beneficiary, or alternate payee of the system.
- (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.

**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.

## History

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Enacted by Acts 1999, 76th Leg., ch. 381 (H.B. 3377), § 1, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 1267 (H.B. 752), effective September 1, 2003; am. Acts 2017, 85th Leg., ch. 320 (S.B. 2190), §§ 2.01, 2.02, 2.03, 2.04, 2.05, 2.06, 2.07, 2.08, 2.09, 2.10, 2.11, 2.12, 2.13, 2.14, 2.15, 2.16, 2.17, 2.18, 2.19, 2.20, 2.21, 2.22, 2.23, 2.24, 2.25, 2.26, 2.27, 2.28, 2.29, 2.30, 2.31, 2.32, effective July 1, 2017.

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