

AN ACT

relating to correcting errors in the distribution of benefits by a public retirement system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 802, Government Code, is amended by adding Section 802.1024 to read as follows:

Sec. 802.1024. CORRECTION OF ERRORS. (a) Except as provided by Subsection (b), if an error in the records of a public retirement system results in a person receiving more or less money than the person is entitled to receive under this subtitle, the governing body of the retirement system shall correct the error and so far as practicable adjust any future payments so that the actuarial equivalent of the benefit to which the person is entitled is paid. If no future payments are due, the governing body of the retirement system may recover the overpayment in any manner that would be permitted for the collection of any other debt.

(b) Except as provided by Subsection (c), a public retirement system:

(1) may correct the overpayment of benefits to a person entitled to receive payments from the system by the method described by Subsection (a) only for an overpayment made during the three years preceding the date the governing body of the system discovers or discovered the overpayment; and

(2) may not recover from the recipient any overpayment

1 made more than three years before the discovery of the overpayment.

2 (c) Subsection (b) does not apply to an overpayment a  
3 reasonable person should know the person is not entitled to  
4 receive.

5 SECTION 2. Section 12(b), Chapter 451, Acts of the 72nd  
6 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas  
7 Civil Statutes), is amended to read as follows:

8 (b) If any change or error in the records of the retirement  
9 system is discovered or results in any member, surviving spouse, or  
10 beneficiary receiving from the retirement system more or less than  
11 the member, surviving spouse, or beneficiary would have been  
12 entitled to receive had the records been correct, the retirement  
13 board shall have the power to correct such error. Except as  
14 provided by Section 802.1024, Government Code, the retirement  
15 system shall, ~~and~~ as far as possible, ~~to~~ adjust the payments in  
16 such a manner that the actuarial equivalent of the benefits to which  
17 the member, surviving spouse, or beneficiary was correctly entitled  
18 shall be paid.

19 SECTION 3. Section 10.02, Chapter 452, Acts of the 72nd  
20 Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's  
21 Texas Civil Statutes), is amended to read as follows:

22 Sec. 10.02. CORRECTION OF ERRORS. If any change or error in  
23 the records of the police retirement system should be discovered or  
24 should result in any member, retired member, surviving spouse, or  
25 beneficiary receiving from the police retirement system more or  
26 less than such member, retired member, surviving spouse, or  
27 beneficiary would have been entitled to receive had the records

1 been correct, the police retirement board shall have the power to  
2 correct such error. Except as provided by Section 802.1024,  
3 Government Code, the retirement system shall, ~~[and]~~ as far as  
4 possible, ~~[to]~~ adjust the payments so that the actuarial equivalent  
5 of the benefits to which the member, retired member, surviving  
6 spouse, or beneficiary was correctly entitled shall be paid.

7 SECTION 4. Section 3.03(d), Chapter 824, Acts of the 73rd  
8 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
9 Civil Statutes), is amended to read as follows:

10 (d) Except as provided by Section 802.1024, Government  
11 Code, the ~~[The]~~ board may reduce the amount of a benefit to which a  
12 retiree or beneficiary is otherwise entitled in order to reimburse  
13 the fund for an overpayment or incorrect payment of benefits to the  
14 retiree or beneficiary.

15 SECTION 5. This Act applies to an underpayment or  
16 overpayment of benefits by a public retirement system made by the  
17 governing body of the system regardless of whether the underpayment  
18 or overpayment was made before the effective date of this Act,  
19 except that it does not apply to an overpayment that has been  
20 resolved by agreement made before the effective date of this Act  
21 between the governing body of a public retirement system and the  
22 recipient of the overpayment.

23 SECTION 6. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2003.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 258 was passed by the House on April 3, 2003, by the following vote: Yeas 141, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 258 was passed by the Senate on May 20, 2003, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor