

1-1 By: Pickett, et al. (Senate Sponsor - Madla) H.B. No. 258  
1-2 (In the Senate - Received from the House April 7, 2003;  
1-3 April 9, 2003, read first time and referred to Committee on  
1-4 Intergovernmental Relations; May 7, 2003, reported favorably by  
1-5 the following vote: Yeas 4, Nays 0; May 7, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to correcting errors in the distribution of benefits by a  
1-9 public retirement system.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter B, Chapter 802, Government Code, is  
1-12 amended by adding Section 802.1024 to read as follows:

1-13 Sec. 802.1024. CORRECTION OF ERRORS. (a) Except as  
1-14 provided by Subsection (b), if an error in the records of a public  
1-15 retirement system results in a person receiving more or less money  
1-16 than the person is entitled to receive under this subtitle, the  
1-17 governing body of the retirement system shall correct the error and  
1-18 so far as practicable adjust any future payments so that the  
1-19 actuarial equivalent of the benefit to which the person is entitled  
1-20 is paid. If no future payments are due, the governing body of the  
1-21 retirement system may recover the overpayment in any manner that  
1-22 would be permitted for the collection of any other debt.

1-23 (b) Except as provided by Subsection (c), a public  
1-24 retirement system:

1-25 (1) may correct the overpayment of benefits to a  
1-26 person entitled to receive payments from the system by the method  
1-27 described by Subsection (a) only for an overpayment made during the  
1-28 three years preceding the date the governing body of the system  
1-29 discovers or discovered the overpayment; and

1-30 (2) may not recover from the recipient any overpayment  
1-31 made more than three years before the discovery of the overpayment.

1-32 (c) Subsection (b) does not apply to an overpayment a  
1-33 reasonable person should know the person is not entitled to  
1-34 receive.

1-35 SECTION 2. Section 12(b), Chapter 451, Acts of the 72nd  
1-36 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas  
1-37 Civil Statutes), is amended to read as follows:

1-38 (b) If any change or error in the records of the retirement  
1-39 system is discovered or results in any member, surviving spouse, or  
1-40 beneficiary receiving from the retirement system more or less than  
1-41 the member, surviving spouse, or beneficiary would have been  
1-42 entitled to receive had the records been correct, the retirement  
1-43 board shall have the power to correct such error. Except as  
1-44 provided by Section 802.1024, Government Code, the retirement  
1-45 system shall, ~~and~~ as far as possible, ~~to~~ adjust the payments in  
1-46 such a manner that the actuarial equivalent of the benefits to which  
1-47 the member, surviving spouse, or beneficiary was correctly entitled  
1-48 shall be paid.

1-49 SECTION 3. Section 10.02, Chapter 452, Acts of the 72nd  
1-50 Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's  
1-51 Texas Civil Statutes), is amended to read as follows:

1-52 Sec. 10.02. CORRECTION OF ERRORS. If any change or error in  
1-53 the records of the police retirement system should be discovered or  
1-54 should result in any member, retired member, surviving spouse, or  
1-55 beneficiary receiving from the police retirement system more or  
1-56 less than such member, retired member, surviving spouse, or  
1-57 beneficiary would have been entitled to receive had the records  
1-58 been correct, the police retirement board shall have the power to  
1-59 correct such error. Except as provided by Section 802.1024,  
1-60 Government Code, the retirement system shall, ~~and~~ as far as  
1-61 possible, ~~to~~ adjust the payments so that the actuarial equivalent  
1-62 of the benefits to which the member, retired member, surviving  
1-63 spouse, or beneficiary was correctly entitled shall be paid.

1-64 SECTION 4. Section 3.03(d), Chapter 824, Acts of the 73rd

2-1 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
2-2 Civil Statutes), is amended to read as follows:

2-3 (d) Except as provided by Section 802.1024, Government  
2-4 Code, the [~~The~~] board may reduce the amount of a benefit to which a  
2-5 retiree or beneficiary is otherwise entitled in order to reimburse  
2-6 the fund for an overpayment or incorrect payment of benefits to the  
2-7 retiree or beneficiary.

2-8 SECTION 5. This Act applies to an underpayment or  
2-9 overpayment of benefits by a public retirement system made by the  
2-10 governing body of the system regardless of whether the underpayment  
2-11 or overpayment was made before the effective date of this Act,  
2-12 except that it does not apply to an overpayment that has been  
2-13 resolved by agreement made before the effective date of this Act  
2-14 between the governing body of a public retirement system and the  
2-15 recipient of the overpayment.

2-16 SECTION 6. This Act takes effect immediately if it receives  
2-17 a vote of two-thirds of all the members elected to each house, as  
2-18 provided by Section 39, Article III, Texas Constitution. If this  
2-19 Act does not receive the vote necessary for immediate effect, this  
2-20 Act takes effect September 1, 2003.

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