

1-1 By: Puente (Senate Sponsor - Madla) H.B. No. 1153  
1-2 (In the Senate - Received from the House March 31, 2003;  
1-3 April 3, 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 the retirement system for fire fighters and police  
1-9 officers in certain municipalities.

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

1-11 SECTION 1. Section 1.02(7), Chapter 824, Acts of the 73rd  
1-12 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
1-13 Civil Statutes), is amended to read as follows:

1-14 (7) "Dependent child" means:

1-15 (A) a person who is less than 18 years of age and  
1-16 is a child of a deceased member or deceased retiree; [~~under age 18,~~  
1-17 or

1-18 (B) a [~~totally disabled~~] person:

1-19 (i) who is at least 18 years of age;

1-20 (ii) who is mentally or physically disabled  
1-21 to the extent that the person is not capable of being  
1-22 self-supporting; and

1-23 (iii) [~~7~~] whose natural or adoptive parent  
1-24 is a deceased member or deceased retiree, provided that [~~if~~], for  
1-25 the year immediately preceding the death of the member or retiree,  
1-26 the deceased member or retiree claimed the person as a dependent on  
1-27 the member's or retiree's federal income tax return.

1-28 SECTION 2. Sections 4.01(a) and (c), Chapter 824, Acts of  
1-29 the 73rd Legislature, Regular Session, 1993 (Article 6243o,  
1-30 Vernon's Texas Civil Statutes), are amended to read as follows:

1-31 (a) A person is eligible to become a member of the fund as a  
1-32 condition of continued employment [~~two months~~] after the person has  
1-33 received state certification as a fire fighter or police officer,  
1-34 completed all other requirements for membership in the fund, and:

1-35 (1) graduated from a fire fighter or police officer  
1-36 training academy of a municipality to which this Act applies and  
1-37 passed the municipality's fire fighter's or police officer's  
1-38 probationary exam; or

1-39 (2) otherwise satisfied the requirements for  
1-40 employment as a fire fighter or police officer in a municipality to  
1-41 which this Act applies.

1-42 (c) Except as provided by Section 4.05 of this Act, a [A]  
1-43 municipality to which this Act applies shall match an amount equal  
1-44 to twice the amount of each payment a member makes to the fund under  
1-45 this section.

1-46 SECTION 3. Section 4.05, Chapter 824, Acts of the 73rd  
1-47 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
1-48 Civil Statutes), is amended by amending Subsection (a) and adding  
1-49 Subsection (a-1) to read as follows:

1-50 (a) Except as provided by Subsection (a-1) of this section,  
1-51 a [A] municipality to which this Act applies shall pay into the fund  
1-52 an amount equal to double the sum total of all member contributions  
1-53 made in accordance with Section 4.04 of this Act.

1-54 (a-1) For a member who participates in the fund for the  
1-55 first time after September 30, 2003, and before October 1, 2005, a  
1-56 municipality is not required to pay an amount under Subsection (a)  
1-57 of this section into the fund for the member before the 61st day  
1-58 after the date the member becomes a participant in the fund.

1-59 SECTION 4. Section 4.07(b), Chapter 824, Acts of the 73rd  
1-60 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
1-61 Civil Statutes), is amended to read as follows:

1-62 (b) A member of the fund who terminates employment before  
1-63 the member's right to benefits under the fund has vested but who has  
1-64 contributed to the fund for at least five years is entitled to a

2-1 refund of the member's contributions that were picked up by the  
 2-2 municipality. That refund shall be paid without interest. A refund  
 2-3 under this section is not available to a member who terminates  
 2-4 employment to receive a disability pension or to a survivor  
 2-5 beneficiary under this Act. Except as provided by Section 4.08 of  
 2-6 this Act, a [A] person's acceptance of a refund under this  
 2-7 subsection precludes the person from any other right or benefit  
 2-8 under this Act.

2-9 SECTION 5. Article 4, Chapter 824, Acts of the 73rd  
 2-10 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
 2-11 Civil Statutes), is amended by adding Section 4.08 to read as  
 2-12 follows:

2-13 Sec. 4.08. PURCHASE OF SERVICE CREDIT PREVIOUSLY  
 2-14 REFUNDED. (a) A member who received a refund under Section 4.07 of  
 2-15 this Act of contributions made for a prior period of employment may  
 2-16 reestablish service credit for that prior period of employment by  
 2-17 paying to the fund a lump sum equal to the amount of the refund the  
 2-18 member received under Section 4.07 of this Act, plus interest on the  
 2-19 amount at the actuarial assumed rate of return, as established by  
 2-20 the board, from the date the member received the refund to the date  
 2-21 the member makes the lump-sum payment.

2-22 (b) A member must make the lump-sum payment under this  
 2-23 section within a period of days after the date the member is  
 2-24 reemployed that is equal to three times the number of days of the  
 2-25 period beginning on the date the member terminated the member's  
 2-26 prior employment and ending on the date the member is reemployed,  
 2-27 provided that the period for making the lump-sum payment may not  
 2-28 exceed five years.

2-29 (c) The member must file with the secretary of the board a  
 2-30 written statement of intent to make the lump-sum payment under this  
 2-31 section not later than the 90th day after the date the member is  
 2-32 reemployed, except that a member who is reemployed before October  
 2-33 1, 2003, must file the statement on or before December 31, 2003.

2-34 SECTION 6. Section 5.03(b), Chapter 824, Acts of the 73rd  
 2-35 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
 2-36 Civil Statutes), is amended to read as follows:

2-37 (b) A member of the fund who has a disability resulting from  
 2-38 injury or disease incurred before the member became a fire fighter  
 2-39 or police officer [~~or while a member of any uniformed service~~] is  
 2-40 not entitled to a disability retirement annuity based on that  
 2-41 disability.

2-42 SECTION 7. Section 5.05(b), Chapter 824, Acts of the 73rd  
 2-43 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
 2-44 Civil Statutes), is amended to read as follows:

2-45 (b) For those retired because of disability before August  
 2-46 30, 1971, the board may change the disability retirement annuity  
 2-47 provided by this Act, in accordance with any change in the degree of  
 2-48 disability, except that the percentage used to compute the annuity  
 2-49 may not, except in the case of discontinuance, be reduced to less  
 2-50 than 2.25 [~~two~~] percent of the base pay of a private each month, for  
 2-51 each year that the retiree has served and contributed a portion of  
 2-52 salary as provided by this Act, based on the greater of:

- 2-53 (1) the rate of pay at the time of the original
- 2-54 granting of the disability retirement annuity; or
- 2-55 (2) a minimum base pay of \$200 each month.

2-56 SECTION 8. Sections 6.02(a), (c), and (j), Chapter 824,  
 2-57 Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o,  
 2-58 Vernon's Texas Civil Statutes), are amended to read as follows:

2-59 (a) Subject to Section 6.03 of this Act and the provisions  
 2-60 of this section, if a member or disability retiree dies leaving a  
 2-61 surviving spouse or at least one dependent child, the surviving  
 2-62 spouse and the children are entitled to receive from the fund an  
 2-63 aggregate death benefit annuity, computed and payable from the date  
 2-64 of the member's death. The surviving spouse may elect the annuity  
 2-65 in an amount that is equal to either:

- 2-66 (1) 50 percent of the member's average total salary;
- 2-67 or
- 2-68 (2) the same percentage of the member's average total
- 2-69 salary that the member would have been entitled to receive as a

3-1 retirement annuity if the member could have retired on the date of  
3-2 death.

3-3 (c) Subject to Section 6.08 of this Act and the provisions  
3-4 of this section, if a retiree other than a disability retiree dies  
3-5 leaving a surviving spouse or at least one dependent child, the  
3-6 surviving spouse and dependent children are entitled to receive  
3-7 from the fund an aggregate death benefit annuity, computed and  
3-8 payable from the date of the member's death, in an amount that is  
3-9 equal to the lesser of:

3-10 (1) the retirement annuity to which a member with the  
3-11 same average total salary as the deceased retiree and 27 years of  
3-12 service credit would be entitled if the member retired on the date  
3-13 of the deceased retiree's death; or

3-14 (2) the retirement annuity the retiree was receiving  
3-15 at the time of the retiree's death.

3-16 (j) A dependent child as defined by Section 1.02(7)(B) of  
3-17 this Act [~~of the member who is so mentally or physically disabled as~~  
3-18 ~~to be incapable of being self-supporting to any extent, if~~  
3-19 ~~otherwise qualified and regardless of age,~~] has the same rights as  
3-20 [~~of~~] a dependent child as defined by Section 1.02(7)(A) of this Act  
3-21 [under 18 years of age], except that any death benefit annuity paid  
3-22 under this subsection to a dependent [~~any mentally or physically~~  
3-23 ~~disabled~~] child as defined by Section 1.02(7)(B) of this Act may, at  
3-24 the discretion of the board, be reduced to the extent of any state  
3-25 pension or aid, including Medicaid, or any state-funded assistance  
3-26 received by the child, regardless of whether the funds were made  
3-27 available to the state by the federal government. In no other  
3-28 instance under this Act is a child entitled to any benefit after  
3-29 becoming 18 years of age.

3-30 SECTION 9. Section 6.13, Chapter 824, Acts of the 73rd  
3-31 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
3-32 Civil Statutes), is amended to read as follows:

3-33 Sec. 6.13. GUARDIANSHIP. Any benefit payable under this  
3-34 article to a dependent child as defined by Section 1.02(7)(B) of  
3-35 this Act may be paid only to a guardian who is appointed in  
3-36 accordance with Chapter XIII, Texas Probate Code. Any benefit  
3-37 payable under this article to a dependent child as defined by  
3-38 Section 1.02(7)(A) of this Act may, at the board's discretion, be:

3-39 (1) paid to a guardian appointed in accordance with  
3-40 Chapter XIII, Texas Probate Code; or

3-41 (2) accrued by the fund and paid directly to the  
3-42 dependent child on the child's 18th birthday.

3-43 SECTION 10. Section 4.03(g), Chapter 824, Acts of the 73rd  
3-44 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
3-45 Civil Statutes), is repealed.

3-46 SECTION 11. This Act takes effect October 1, 2003.

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