

By: Hamric

H.B. No. 1388

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to a firefighters' relief and retirement fund in certain  
3 municipalities.

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

5 SECTION 1. Section 1, Article 6243e.2(1), Revised Statutes,  
6 is amended by renumbering Subdivision (1) as Subdivision (1-a) and  
7 amending Subdivisions (1) and (7) to read as follows:

8 (1) "Active service" means a status of current  
9 employment as a firefighter by the fire department of a  
10 municipality described by Section 2(a) of this article.

11 (1-a) "Average monthly salary" means one thirty-sixth  
12 of the member's salary as a firefighter for the member's highest 78  
13 biweekly pay periods during the member's participation in the fund  
14 or, if the member has participated in the fund for less than three  
15 years, the total salary paid to the member for the periods the  
16 member participated in the fund divided by the number of months the  
17 member has participated in the fund. If a member is not paid on the  
18 basis of biweekly pay periods, "average monthly salary" is  
19 determined on the basis of the number of pay periods under the  
20 payroll practices of the municipality sponsoring the fund that most  
21 closely correspond to 78 biweekly pay periods.

22 (7) "DROP account" means the notional account  
23 established to reflect the credits, contributions, and earnings [~~or~~  
24 ~~losses~~] of a member who has made a DROP election in accordance with

1 Section 5 of this article.

2 SECTION 2. Section 2(b), Article 6243e.2(1), Revised  
3 Statutes, is amended to read as follows:

4 (b) The board of trustees of the fund shall be known as the  
5 "(name of municipality) Firefighters' Relief and Retirement Fund  
6 Board of Trustees" and the fund shall be known as the "(name of  
7 municipality) Firefighters' Relief and Retirement Fund." [~~"Board~~  
8 ~~of Firefighters' Relief and Retirement Fund Trustees of \_\_\_\_\_,~~  
9 ~~Texas."~~] The board consists of 10 trustees, including:

10 (1) the mayor or an appointed representative of the  
11 mayor;

12 (2) the treasurer of the municipality or, if there is  
13 not a treasurer, the secretary, clerk, or other person who by law,  
14 charter provision, or ordinance performs the duty of treasurer of  
15 the municipality;

16 (3) five firefighters who are members of the fund;

17 (4) one person who is a retired firefighter and a  
18 member of the fund with at least 20 years of participation; and

19 (5) two persons, each of whom is a registered voter of  
20 the municipality, has been a resident of the municipality for at  
21 least three years preceding the date of initial appointment, and is  
22 not a municipal officer or employee.

23 SECTION 3. Section 3, Article 6243e.2(1), Revised Statutes,  
24 is amended by adding Subsections (j)-(p) to read as follows:

25 (j) The board may pay with fund assets, and distribute to  
26 survivors of deceased firefighters, commemorative flags and  
27 similar memorabilia, having a value of \$75 or less, to honor service

1 rendered by the firefighters.

2 (k) The board may accept gifts and donations to the fund.  
3 The gifts and donations shall be added to the fund for the use of the  
4 fund.

5 (l) The trustees, executive director, and employees of the  
6 fund are fully protected and free of liability for any action taken  
7 or omission made or any action or omission suffered by them in good  
8 faith in the performance of their duties for the fund.

9 (m) A gathering of any number of trustees to investigate,  
10 research, or review prospective or current investments, without  
11 formal action by the trustees, is not a deliberation or meeting for  
12 purposes of Chapter 551, Government Code, and is not required to be  
13 open to the public.

14 (n) The board, or a committee of the board sitting in review  
15 of medical or psychiatric records, may consider the medical or  
16 psychiatric records of multiple individual applicants for  
17 disability benefits within a single closed session under Section  
18 551.078, Government Code, but any action on an application shall be  
19 taken on an individual basis.

20 (o) The board may delegate all or part of its duties  
21 concerning benefits provided under this article to a pension  
22 benefits committee composed of five trustees appointed by the chair  
23 of the board. All actions of the committee concerning benefits  
24 provided under this article are final, unless otherwise provided by  
25 the policies and procedures approved by the board. The chair of the  
26 board may appoint a trustee as an alternate member of the committee.

27 (p) The board may delegate all or part of its duties under

1 this article concerning personnel matters, the making of fund  
2 policies and procedures, and the conduct of other administrative  
3 matters, to a personnel and procedures committee composed of five  
4 trustees appointed by the chair of the board. All actions of the  
5 committee concerning these matters are final, unless otherwise  
6 provided by the policies and procedures approved by the board or the  
7 committee. The chair of the board may appoint a trustee as an  
8 alternate member of the committee.

9 SECTION 4. Section 4(d), Article 6243e.2(1), Revised  
10 Statutes, is amended to read as follows:

11 (d) The total monthly benefit payable to a retired or  
12 disabled member, other than a deferred retiree or active member who  
13 has elected the DROP under Section 5(b) of this article, or payable  
14 to an eligible survivor of a deceased member as provided by Section  
15 7(a) or 7(b) of this article, shall be increased by the following  
16 amounts: by \$100, beginning with the monthly payment made for July  
17 1999; by \$25, beginning with the monthly payment made for July,  
18 2000; and by \$25, beginning with the monthly payment made for July  
19 2001. These additional benefits may not be increased under Section  
20 11(c) of this article.

21 SECTION 5. Sections 5(a), (c), (d), (e), (g), (i), (j), (k),  
22 and (m), Article 6243e.2(1), Revised Statutes, are amended to read  
23 as follows:

24 (a) A member who is eligible to receive a service pension  
25 under Section 4 of this article and who remains in active service  
26 may elect to participate in the deferred retirement option plan  
27 provided by this section. On subsequently terminating active

1 service, a member who elected the DROP may apply for a monthly  
2 service pension under Section 4 of this article, except that the  
3 effective date of the member's election to participate in the DROP  
4 will be considered the member's retirement date for determining the  
5 amount of the member's monthly service pension. The member may also  
6 apply for any DROP benefit provided under this section on  
7 terminating active service. An election to participate in the  
8 DROP, once approved by the board, is irrevocable. A DROP  
9 participant's monthly benefit at retirement is increased by two  
10 percent of the amount of the member's original benefit for every  
11 full year of participation in the DROP by the member. This increase  
12 does not apply to benefits payable under Subsection (1) of this  
13 section. This increase is applied to the member's benefit at  
14 retirement and is not added to the member's DROP account. The total  
15 increase under this subsection may not exceed 20 percent for 10  
16 years of participation in the DROP by the member.

17 (c) After [~~Beginning in the month~~] a member's DROP election  
18 becomes effective, an amount equal to the monthly service pension  
19 the member would have received under Section 4 of this article and  
20 Section 11(c) of this article, if applicable, had the member  
21 terminated active service on the effective date of the member's  
22 DROP election shall be credited to a DROP account maintained for the  
23 member. That monthly credit to the member's DROP account shall  
24 continue until the earlier of the date the member terminates active  
25 service or the 10th anniversary of the effective date of the  
26 member's DROP election.

27 (d) A member's DROP account shall be credited with earnings

1 ~~[or losses]~~ at an annual rate equal to the average annual return  
2 earned by the fund over the five years preceding, but not including,  
3 the year during which the credit is given. Notwithstanding the  
4 preceding, however, the credit to the member's DROP account shall  
5 be at an annual rate of not less than five percent nor greater than  
6 ten percent, irrespective of actual earnings. Those earnings ~~[or~~  
7 ~~losses]~~ shall be computed and credited at a time and in a manner  
8 determined by the board, except that earnings ~~[or losses]~~ shall be  
9 credited not less frequently than once in each 13-month period and  
10 shall take into account partial years of participation in the DROP.  
11 If the member has not terminated active service, the member's DROP  
12 account may not be credited with earnings ~~[or losses]~~ after the 10th  
13 anniversary of the effective date of the member's DROP election.

14 (e) A member who terminates active service after  
15 participating in the DROP is entitled to receive, in addition to the  
16 member's service pension under Section 4 of this article, a benefit  
17 equal to the balance of the member's DROP account. ~~[Unless the~~  
18 ~~member elects to receive partial distributions in accordance with~~  
19 ~~Subsection (f) of this section, the balance of a member's DROP~~  
20 ~~account shall be paid to the member in a single lump-sum payment as~~  
21 ~~soon as is administratively practicable after the member's~~  
22 ~~termination of active service.]~~

23 (g) If a member elects partial payments, for periods after a  
24 member terminates active service and before the member's DROP  
25 account is completely distributed, the member's DROP account shall  
26 be credited with earnings ~~[or losses]~~ of the fund as computed under  
27 Subsection (d) of this section ~~[and reduced by an administrative~~

1 ~~fee of one percent of the account balance each year, determined~~  
2 ~~before adjustment for earnings or losses for the year].~~

3 (i) For purposes of computing and providing service pension  
4 benefits under Section 4 of this article and for purposes of  
5 computing and providing death benefits under Section 7 of this  
6 article, the day immediately before the effective date of the DROP  
7 participant's election is considered to be the date the member  
8 terminates active service. A salary earned or additional years of  
9 participation completed after the member's DROP election becomes  
10 effective may not be considered in the computation of retirement or  
11 death benefits, except for the limited purpose of percentage  
12 increases provided under Subsection (a) of this section.

13 (j) If a DROP participant dies before complete distribution  
14 of the member's DROP account has been made, the member's DROP  
15 account balance shall be distributed to the member's eligible  
16 beneficiaries, determined as follows:

17 (1) if the member is survived by a spouse who was the  
18 member's spouse on the member's last day of active service and one  
19 or more eligible children, one-half of the member's DROP account  
20 balance shall be paid to that eligible spouse, and the remaining  
21 one-half shall be divided equally among the member's eligible  
22 children;

23 (2) if the member is survived by a spouse described by  
24 Subdivision (1) of this subsection, but not by an eligible child,  
25 the member's entire DROP account balance shall be paid to the  
26 surviving spouse;

27 (3) if the member is survived by one or more eligible

1 children, but not by a spouse described by Subdivision (1) of this  
2 subsection, the member's DROP account balance shall be divided  
3 equally among the eligible children;

4 (4) if the member is not survived by a spouse described  
5 by Subdivision (1) of this subsection or an eligible child, the  
6 member's DROP account balance shall be divided equally among the  
7 member's eligible parents;

8 (5) if the member is not survived by a spouse described  
9 by Subdivision (1) of this subsection, an eligible child, or an  
10 eligible parent, the member's DROP account balance shall be  
11 distributed in accordance with the member's beneficiary  
12 designation filed with the board or, if the member has failed to  
13 file a valid beneficiary designation, to the member's estate;  
14 [~~and~~]

15 (6) if a member's spouse described by Subdivision (1)  
16 of this subsection was not married to the member on the date the  
17 member's DROP election became effective, the spouse shall receive a  
18 reduced benefit equal to the benefit otherwise payable to the  
19 surviving spouse under this subsection, multiplied by the  
20 percentage of the period between the member's DROP election and the  
21 date the member left active service during which the spouse and the  
22 member were married, and the amount by which the spouse's benefit is  
23 reduced shall be divided among any other eligible survivors as if  
24 the member did not have an eligible spouse, or if there are no  
25 eligible survivors, in accordance with the member's beneficiary  
26 designation filed with the board, or, if the member failed to file a  
27 valid beneficiary designation, to the member's estate; and



1           (7) if the conditions described by Subdivision (1),  
2 (2), or (6) of this subsection exist, the surviving spouse may elect  
3 to maintain the DROP account with the fund in the same manner  
4 described by Subsections (e), (f), and (g) of this section.

5           (k) An eligible beneficiary's share of a deceased member's  
6 DROP account shall be distributed as soon as administratively  
7 practicable after the member's death in the form of a single  
8 lump-sum payment, unless the surviving spouse makes the election  
9 permitted by Subsection (j)(7) of this section. All distributions  
10 to beneficiaries under this subsection must be made in a manner and  
11 at a time that comply with Section 401(a)(9) of the code.

12           (m) A DROP participant with a break in service may receive  
13 service credit within DROP for days worked after the regular  
14 expiration of the permitted DROP period. The service credit shall  
15 be limited to the number of days in which the participant  
16 experienced a break in service or the number of days required to  
17 constitute 10 years of DROP participation, whichever is smaller. A  
18 retired member who previously participated in the DROP and who  
19 returns to active service is subject to the terms of this section in  
20 effect at the time of the member's return to active service.

21           SECTION 6. Section 6, Article 6243e.2(1), Revised Statutes,  
22 is amended by adding a new Subsection (g) and relettering existing  
23 Subsections (g) and (h) to read as follows:

24           (g) The pension benefits committee shall review, on a  
25 case-by-case basis, existing benefit payments to members, and to  
26 survivors of deceased members, who retired as a result of a  
27 disability with 20 or more years of service under a provision of any

1 predecessor statute previously governing the fund. The review will  
2 determine whether the member's disability was an on-duty disability  
3 that satisfies the requirements of Subsection (b) or (c) of this  
4 section. A determination that a member's disability was an on-duty  
5 disability, as described above, will apply only on a prospective  
6 basis beginning with January 1 of the calendar year in which the  
7 determination is made, and will not affect the amount of the  
8 member's or survivor's benefits. The committee shall make its  
9 review and determination under this subsection on the basis of the  
10 medical evidence and any other relevant non-testimonial evidence  
11 that was previously submitted in connection with the prior  
12 application for benefits, except that if the committee finds that  
13 the historical file is insufficient to make the determination,  
14 supplemental evidence of a probative nature may be adduced and  
15 accepted to help make the determination.

16 (h) A person may not receive an on-duty or off-duty  
17 disability pension from the fund unless the person or the person's  
18 legal representative files with the board an application for  
19 disability benefits, in the form approved by the board, and  
20 certificates of the member's disability signed and sworn to by the  
21 member and the member's physician or by a physician selected by the  
22 board. The board may require other or additional evidence of  
23 disability before authorizing payment of disability pension  
24 benefits.

25 (i) [~~(h)~~] The board shall make all determinations concerning  
26 benefits under this section in accordance with uniform principles  
27 consistently applied on the basis of medical or other evidence that

1 the board determines is necessary or desirable.

2 SECTION 7. Sections 7(b), (e), and (g), Article 6243e.2(1),  
3 Revised Statutes, are amended to read as follows:

4 (b) If a member's eligible spouse was married to the member  
5 for less than five years and was not married to the member at the  
6 time the member left active service, the eligible spouse shall be  
7 paid a reduced benefit equal to the benefit otherwise payable to the  
8 eligible spouse under this section, multiplied by the number of  
9 months [~~time~~] the eligible spouse was married to the member, and  
10 divided by 60 months [~~five years~~]. Any benefit the eligible spouse  
11 may be granted under Section 10A of this article shall be reduced in  
12 the same proportion as the reduced benefit provided by this  
13 subsection. The amount by which the eligible spouse's benefit is  
14 reduced shall be divided among any other eligible survivors as if  
15 the member did not have an eligible spouse. This subsection may not  
16 be construed to effect any reduction to an eligible spouse of  
17 benefits otherwise payable under Section 4(d) of this article.

18 (e) In addition to the monthly death benefit provided under  
19 Subsection (a) of this section, if an active member or a member  
20 receiving a service pension under Section 4 of this article or a  
21 disability pension under Section 6 of this article dies on or after  
22 July 1, 1998, the member's eligible survivors are entitled to a  
23 one-time \$5,000 death benefit, payable as a lump sum as follows:

24 (1) if the member is survived by an eligible spouse,  
25 the eligible spouse is entitled to receive \$5,000;

26 (2) if the member is not survived by an eligible  
27 spouse, the member's eligible children are entitled to receive

1 \$5,000, divided equally among those children;

2 (3) if the member is not survived by an eligible spouse  
3 or an eligible child, the \$5,000 death benefit shall be divided  
4 equally among the eligible parents of the deceased member; or

5 (4) if the member is not survived by an eligible  
6 spouse, an eligible child, or an eligible parent, the \$5,000 death  
7 benefit shall be paid to the deceased member's estate or to the  
8 member's court-approved small estate through its legal  
9 representative.

10 (g) If a member in active service dies and does not leave an  
11 eligible survivor, or the eligible survivors unanimously elect such  
12 a benefit in lieu of any other death benefit, a lump-sum benefit  
13 shall be paid in an amount equal to the refund, if any, to which the  
14 member would have been entitled under Section 8 of this article had  
15 the member terminated service on the date of the member's death.  
16 That lump-sum benefit shall be paid to the eligible survivors as  
17 provided by Subsection (a) of this section or, if there are not any  
18 eligible survivors, to the member's designated beneficiary. A  
19 member's beneficiary must be designated before the member's death  
20 on a form approved by the board. If more than one beneficiary is  
21 designated, the benefit shall be divided equally among the  
22 beneficiaries unless a different allocation is provided in the  
23 designation. If a member fails to properly designate a  
24 beneficiary, the benefit provided by this subsection shall be  
25 payable to the member's estate or to the member's court-approved  
26 small estate through its legal representative on application by the  
27 estate or legal representative. Money payable under this

1 subsection may not escheat to the state.

2 SECTION 8. Section 11, Article 6243e.2(1), Revised  
3 Statutes, is amended by amending Subsections (b), (d), (f), (h),  
4 and (m) and adding Subsections (n)-(p) to read as follows:

5 (b) The [~~After a member terminates active service, the~~]  
6 amounts of all benefits that the member or the member's  
7 beneficiaries may become entitled to receive from the fund shall be  
8 computed on the basis of the schedule of benefits in effect for the  
9 fund at the member's election either on the day the member leaves  
10 active service or on the day the member ceased to carry out the  
11 member's regular duties as a firefighter [~~on the effective date of~~  
12 ~~the termination of the member's active service~~], without adjustment  
13 for any subsequent increases of benefits unless those increases are  
14 expressly made applicable to previously retired members or their  
15 beneficiaries.

16 (d) In computing a member's years of participation, time  
17 served in the armed forces of the nation during war or national  
18 emergency is considered continuous service. Except for that  
19 military service, credit for prior service shall be given only if a  
20 member returns to active service as a firefighter before the fifth  
21 anniversary of a previous effective date of termination.  
22 Notwithstanding any provision of this article to the contrary,  
23 contributions, benefits, and service credit with respect to  
24 qualified military service shall be provided in accordance with  
25 Section 414(u) of the code. A member who is engaged in active duty  
26 in any of the military services of the United States shall receive  
27 credited pension service for the period of the military service, if

1 the member returns to employment with the employer municipality's  
2 fire department with an honorable discharge within the period  
3 required by the federal reemployment Act and the period of military  
4 service does not exceed the period prescribed by that Act. If a  
5 member sustains an injury while on military leave under the terms of  
6 the federal reemployment Act, pension benefits are payable based on  
7 the off-duty disability benefit provisions prescribed by Section  
8 6(e) of this article. If a member dies while on military leave  
9 under the terms of the federal reemployment Act, death benefits are  
10 payable to eligible survivors based on the off-duty death benefits  
11 prescribed by Section 7 of this article. This subsection is  
12 intended to comply with the federal reemployment Act. The board may  
13 make, maintain, and amend policies and procedures as desirable or  
14 necessary to implement the federal reemployment Act. In this  
15 subsection, "federal reemployment Act" means the Uniformed  
16 Services Employment and Reemployment Rights Act of 1994 (38 U.S.C.  
17 Section 4301 et seq.), as amended.

18 (f) A member, eligible survivor, or beneficiary who is  
19 entitled to receive a benefit payment under this article is  
20 entitled to receive the benefit beginning on the date the member  
21 ceases to carry out the member's regular duties as a firefighter,  
22 notwithstanding the fact that the member may remain on the payroll  
23 of the member's fire department or receive sick leave, vacation, or  
24 other pay after the effective date of termination of the member's  
25 regular duties as a firefighter. In this article, an authorization  
26 to receive a benefit "beginning on the effective date of the  
27 member's termination of active service" includes authority for the

1 member to instead elect to make the member's pension effective on  
2 the date the member ceases to carry out the member's regular duties  
3 as a firefighter. If there is a delay in beginning payment of  
4 benefits resulting from the requirements of Section 6(h) [~~6(g)~~] of  
5 this article for disability pensions, the member or beneficiary  
6 shall, when the disability pension is approved by the board, be paid  
7 the full amount of the disability pension that has accrued since the  
8 effective date of termination of the member's regular duties as a  
9 firefighter.

10 (h) A benefit payable under this article to a minor or  
11 another person under a legal disability may be made only to the  
12 legal guardian of the person, or as provided by Subsection (g) of  
13 this section [~~estate of the minor~~]. [~~If a benefit becomes payable~~  
14 ~~to any other person under a legal disability, payment of that~~  
15 ~~benefit may be made only to the conservator or the guardian of that~~  
16 ~~person's estate appointed by a court of competent jurisdiction.~~] A  
17 payment made in accordance with this section on behalf of a minor or  
18 other person under a legal disability fully discharges the fund's  
19 obligation to that person.

20 (m) A benefit payable under this article because of the  
21 death of a member or eligible beneficiary may not be paid to a  
22 person convicted of causing that death but instead shall be paid as  
23 if the convicted person predeceased the deceased member or  
24 beneficiary. If no beneficiary is entitled to the benefit as a  
25 result, the benefit shall be paid to the decedent's estate. Except  
26 as otherwise permitted by this subsection with respect to  
27 suspension of benefits, the board is not required to withhold

1 payment to a person convicted of causing the death of a member or  
2 eligible beneficiary until the board receives actual notice of the  
3 conviction of that person. The board may suspend payment of a  
4 benefit payable on the death of a member or an eligible beneficiary  
5 on the indictment of the person who would otherwise be entitled to  
6 the benefit, and the suspension remains in effect until the board  
7 determines that a final disposition of the charges relating to the  
8 cause of death has occurred. If a benefit payment is suspended  
9 under this subsection and the person is not convicted, the benefit  
10 again becomes payable with interest computed at the rate earned by  
11 the fund during the time the benefit payment was suspended. For  
12 purposes of this subsection, a person has been convicted of causing  
13 the death of a member or eligible beneficiary if:

14 (1) the person has pleaded guilty or nolo contendere  
15 to, or the person has been found guilty by a court of competent  
16 jurisdiction of, an offense at the trial of which it is established  
17 that the person's intentional or knowing act or omission caused the  
18 death of the member or eligible beneficiary, regardless of whether  
19 sentence is imposed or probated; and

20 (2) an appeal of the conviction is not pending, and the  
21 time provided for appeal has expired.

22 (n) If one or more persons have been given a power of  
23 attorney effective to direct distribution of benefits to any person  
24 eligible to receive benefits under this article and the fund  
25 receives conflicting directions as to those distributions, the fund  
26 may withhold benefits until either the final result of judicial  
27 proceedings determining which directive prevails or the fund



1 receives a signed agreement between attorneys-in-fact, and  
2 principals, if applicable, on distribution directives that  
3 completely resolves the conflict. The fund may not be made a party  
4 to any proceeding or suit concerning or involving the distribution  
5 of benefits under conflicting directives.

6 (o) The fund may offset amounts received wrongly or in error  
7 from the fund by any person receiving benefit payments under this  
8 article by making deductions from future benefit payments otherwise  
9 payable to the person or the person's beneficiaries. This remedy is  
10 not exclusive of any other remedy available to the fund.

11 (p) A person who has a claim for a benefit under this article  
12 and is not under a legal disability has until the second anniversary  
13 of the date of eligibility for the benefit to apply to the fund for  
14 the benefit. This subsection does not apply to any election made  
15 under Subsection (f) of this section.

16 SECTION 9. Sections 13(c) and (d), Article 6243e.2(1),  
17 Revised Statutes, are amended to read as follows:

18 (c) Each member in active service shall make contributions  
19 to the fund in an amount equal to 8.35 [~~7.7~~] percent of the member's  
20 salary at the time of the contribution, and as of July 1, 2004, in an  
21 amount equal to nine percent of the member's salary at the time of  
22 the contribution. The governing body of the municipality shall  
23 deduct the contributions from the member's salary and shall forward  
24 the contributions to the fund as soon as practicable.

25 (d) The municipality shall make monthly contributions to  
26 the fund in an amount equal to the product of the contribution rate  
27 certified by the board and the aggregate salaries paid to members of

1 the fund during the month for which the contribution is made. The  
2 board shall certify the municipality's contribution rate for each  
3 year or portion of a year based on the results of actuarial  
4 valuations made at least every three years. The municipality's  
5 contribution rate shall be composed of the normal cost plus the  
6 level percentage of salary payment required to amortize the  
7 unfunded actuarial liability over a constant period of 30 [~~40~~]  
8 years [~~beginning on January 1, 1983,~~] computed on the basis of an  
9 acceptable actuarial reserve funding method approved by the board.  
10 Notwithstanding any other provision of this article, the  
11 contributions by the municipality, when added to any contributions  
12 with respect to a qualified governmental excess benefit arrangement  
13 maintained in accordance with Section 14(c) of this article, may  
14 not be less than twice the amount paid into the fund by  
15 contributions of the members.

16 SECTION 10. Section 16(a), Article 6243e.2(1), Revised  
17 Statutes, is amended to read as follows:

18 (a) A person who becomes a firefighter in a municipality to  
19 which this article applies may receive service credit for prior  
20 employment with the fully paid fire department of another  
21 municipality in this state with a similar fund benefiting only  
22 firefighters of that municipality to which the firefighter  
23 contributed if:

24 (1) the firefighter is under 36 years of age at the  
25 time of applying to the fund;

26 (2) the firefighter passes a physical examination  
27 [~~taken at the firefighter's expense and performed by a physician~~]

1 ~~selected by the board];~~

2 (3) the firefighter pays into the fund an amount equal  
3 to the total contribution the firefighter would have made had the  
4 firefighter been employed by the municipality, at the  
5 municipality's pay scale, instead of the municipality by which the  
6 firefighter was previously employed, plus six percent interest,  
7 compounded annually;

8 (4) the firefighter applies for that credit not later  
9 than the 60th day after the date on which membership begins; and

10 (5) the firefighter has moved directly into employment  
11 at the fire department from the fire department for which the prior  
12 service credit is sought, without any intervening employment or  
13 extended interruption.

14 SECTION 11. Section 17, Article 6243e.2(1), Revised  
15 Statutes, is amended by amending Subsections (a) and (b) and adding  
16 Subsections (d) and (e) to read as follows:

17 (a) Information contained in records that are in the custody  
18 of a fund established under this article concerning an individual  
19 member, retiree, or beneficiary is not public information  
20 ~~[confidential]~~ under Chapter 552, Government Code. The  
21 information ~~[, and]~~ may not be disclosed in a form identifiable with  
22 a specific individual unless:

23 (1) the information is disclosed to:

24 (A) the individual;

25 (B) the individual's attorney, guardian,  
26 executor, administrator, or conservator, or other legal  
27 representative of the individual's estate or court-approved small

1 estate or other person who the board determines is acting in the  
2 interest of the individual or the individual's estate;

3 (C) a spouse or former spouse of the individual,  
4 or the attorney of the spouse or former spouse, if [~~the board~~  
5 ~~determines that~~] the information concerns [~~is relevant to~~] the  
6 spouse's or former spouse's interest in member accounts, benefits,  
7 or other amounts payable by the fund; or

8 (D) a person with written authorization from the  
9 individual to receive the information; or

10 (2) the information is disclosed under an  
11 authorization of the board that specifies the reason for the  
12 disclosure.

13 (b) Notwithstanding Subsection (a) of this section, the  
14 fund may disclose [~~This section does not prevent the disclosure of~~]  
15 the status or identity of an individual as a member, former member,  
16 retiree, deceased member, or beneficiary of the fund, as well as the  
17 individual's dates of service, date of death, last rank held, and  
18 the divisions of the fire department of the municipality in which  
19 service has been rendered.

20 (d) The release of information concerning members,  
21 retirees, or beneficiaries to departments of the municipality or to  
22 other municipal employee pension funds or systems of the  
23 municipality, in order to implement or advance the purposes of this  
24 article is permitted under this section. The release of that  
25 information does not constitute any waiver of confidentiality by  
26 the fund or any waiver as to confidentiality of the information  
27 under the statutes and policies governing the receiving municipal

1 department or employee pension fund or system.

2 (e) The publication and provision by the fund of a retiree's  
3 address, e-mail address, telephone number, dates of service, last  
4 rank held, and the divisions of the fire department of the  
5 municipality in which service was rendered, within compilations or  
6 directories of this information concerning fund retirees, is  
7 permitted under this section. The fund, in its sole discretion, may  
8 provide or distribute those compilations as it deems is in the best  
9 interest of the retirees in general. A retiree may prevent the  
10 publication under this subsection of information relating to the  
11 retiree by giving advance written notice to the fund.

12 SECTION 12. Section 18(b), Article 6243e.2(1), Revised  
13 Statutes, is amended to read as follows:

14 (b) The board may maintain a proportional retirement [~~If the~~  
15 ~~board determines that the provisions governing a participating~~  
16 ~~retirement system are compatible with the provisions governing the~~  
17 ~~fund under this article, the board may establish the~~] program under  
18 this section.

19 SECTION 13. Section 13(h), Article 6243e.2(1), Revised  
20 Statutes, is repealed.

21 SECTION 14. This Act takes effect September 1, 2003.