

By: Janek

S.B. No. 297

Substitute the following for S.B. No. 297:

By: Rose

C.S.S.B. No. 297

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)-(m) to read as follows:

25 (j) The board may pay for with fund assets, and distribute
26 to 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) The board, or a committee of the board sitting in review
10 of medical or psychiatric records, may consider the medical or
11 psychiatric records of multiple individual applicants for
12 disability benefits within a single closed session under Section
13 551.078, Government Code, but any action on an application shall be
14 taken on an individual basis.

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

17 (d) The total monthly benefit payable to a retired or
18 disabled member, other than a deferred retiree or active member who
19 has elected the DROP under Section 5(b) of this article, or payable
20 to an eligible survivor of a deceased member as provided by Section
21 7(a) or 7(b) of this article, shall be increased by the following
22 amounts: by \$100, beginning with the monthly payment made for July
23 1999; by \$25, beginning with the monthly payment made for July,
24 2000; and by \$25, beginning with the monthly payment made for July
25 2001. These additional benefits may not be increased under Section
26 11(c) of this article.

27 SECTION 5. Sections 5(a), (c), (d), (e), (g), (i), (j), (k),

1 and (m), Article 6243e.2(1), Revised Statutes, are amended to read
2 as follows:

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

23 (c) After [~~Beginning in the month~~] a member's DROP election
24 becomes effective, an amount equal to the monthly service pension
25 the member would have received under Section 4 of this article and
26 Section 11(c) of this article, if applicable, had the member
27 terminated active service on the effective date of the member's

1 DROP election shall be credited to a DROP account maintained for the
2 member. That monthly credit to the member's DROP account shall
3 continue until the earlier of the date the member terminates active
4 service or the 10th anniversary of the effective date of the
5 member's DROP election.

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

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

1 ~~termination of active service.]~~

2 (g) If a member elects partial payments, for periods after a
3 member terminates active service and before the member's DROP
4 account is completely distributed, the member's DROP account shall
5 be credited with earnings [~~or losses~~] of the fund as computed under
6 Subsection (d) of this section [~~and reduced by an administrative~~
7 ~~fee of one percent of the account balance each year, determined~~
8 ~~before adjustment for earnings or losses for the year]~~.

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

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

23 (1) if the member is survived by a spouse who was the
24 member's spouse on the member's last day of active service and one
25 or more eligible children, one-half of the member's DROP account
26 balance shall be paid to that eligible spouse, and the remaining
27 one-half shall be divided equally among the member's eligible

1 children;

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

6 (3) if the member is survived by one or more eligible
7 children, but not by a spouse described by Subdivision (1) of this
8 subsection, the member's DROP account balance shall be divided
9 equally among the eligible children;

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

14 (5) if the member is not survived by a spouse described
15 by Subdivision (1) of this subsection, an eligible child, or an
16 eligible parent, the member's DROP account balance shall be
17 distributed in accordance with the member's beneficiary
18 designation filed with the board or, if the member has failed to
19 file a valid beneficiary designation, to the member's estate; ~~and~~

20 (6) if a member's spouse described by Subdivision (1)
21 of this subsection was not married to the member on the date the
22 member's DROP election became effective, the spouse shall receive a
23 reduced benefit equal to the benefit otherwise payable to the
24 surviving spouse under this subsection, multiplied by the
25 percentage of the period between the member's DROP election and the
26 date the member left active service during which the spouse and the
27 member were married, and the amount by which the spouse's benefit is

1 reduced shall be divided among any other eligible survivors as if
2 the member did not have an eligible spouse or, if there are no
3 eligible survivors, distributed in accordance with the member's
4 beneficiary designation filed with the board, or if the member
5 failed to file a valid beneficiary designation, to the member's
6 estate; and

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

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

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

27 SECTION 6. Section 6, Article 6243e.2(1), Revised Statutes,

1 is amended by adding a new Subsection (g) and relettering existing
2 Subsections (g) and (h) to read as follows:

3 (g) The board shall review, on a case-by-case basis,
4 existing benefit payments to members, and to survivors of deceased
5 members, who retired as a result of a disability with 20 or more
6 years of service under a provision of any predecessor statute
7 previously governing the fund. The review will determine whether
8 the member's disability was an on-duty disability that satisfies
9 the requirements of Subsection (b) or (c) of this section. A
10 determination that a member's disability was an on-duty disability,
11 as described above, will apply only on a prospective basis
12 beginning with January 1 of the calendar year in which the
13 determination is made, and will not affect the amount of the
14 member's or survivor's benefits. The board shall make its review
15 and determination under this subsection on the basis of the medical
16 evidence and any other relevant non-testimonial evidence that was
17 previously submitted in connection with the prior application for
18 benefits, except that if the board finds that the historical file is
19 insufficient to make the determination, supplemental evidence of a
20 probative nature may be adduced and accepted to help make the
21 determination.

22 (h) A person may not receive an on-duty or off-duty
23 disability pension from the fund unless the person or the person's
24 legal representative files with the board an application for
25 disability benefits, in the form approved by the board, and
26 certificates of the member's disability signed and sworn to by the
27 member and the member's physician or by a physician selected by the

1 board. The board may require other or additional evidence of
2 disability before authorizing payment of disability pension
3 benefits.

4 (i) [~~(h)~~] The board shall make all determinations
5 concerning benefits under this section in accordance with uniform
6 principles consistently applied on the basis of medical or other
7 evidence that the board determines is necessary or desirable.

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

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

24 (e) In addition to the monthly death benefit provided under
25 Subsection (a) of this section, if an active member or a member
26 receiving a service pension under Section 4 of this article or a
27 disability pension under Section 6 of this article dies on or after

1 July 1, 1998, the member's eligible survivors are entitled to a
2 one-time \$5,000 death benefit, payable as a lump sum as follows:

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

5 (2) if the member is not survived by an eligible
6 spouse, the member's eligible children are entitled to receive
7 \$5,000, divided equally among those children;

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

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

16 (g) If a member in active service dies and does not leave an
17 eligible survivor, or the eligible survivors unanimously elect such
18 a benefit in lieu of any other death benefit, a lump-sum benefit
19 shall be paid in an amount equal to the refund, if any, to which the
20 member would have been entitled under Section 8 of this article had
21 the member terminated service on the date of the member's death.
22 That lump-sum benefit shall be paid to the eligible survivors as
23 provided by Subsection (a) of this section or, if there are not any
24 eligible survivors, to the member's designated beneficiary. A
25 member's beneficiary must be designated before the member's death
26 on a form approved by the board. If more than one beneficiary is
27 designated, the benefit shall be divided equally among the

1 beneficiaries unless a different allocation is provided in the
2 designation. If a member fails to properly designate a
3 beneficiary, the benefit provided by this subsection shall be
4 payable to the member's estate or to the member's court-approved
5 small estate through its legal representative on application by the
6 estate or legal representative. Money payable under this
7 subsection may not escheat to the state.

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

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

22 (d) In computing a member's years of participation, time
23 served in the armed forces of the nation during war or national
24 emergency is considered continuous service. Except for that
25 military service, credit for prior service shall be given only if a
26 member returns to active service as a firefighter before the fifth
27 anniversary of a previous effective date of termination.

1 Notwithstanding any provision of this article to the contrary,
2 contributions, benefits, and service credit with respect to
3 qualified military service shall be provided in accordance with
4 Section 414(u) of the code. A member who is engaged in active duty
5 in any of the military services of the United States shall receive
6 credited pension service for the period of the military service, if
7 the member returns to employment with the employer municipality's
8 fire department with an honorable discharge within the period
9 required by the federal reemployment Act and the period of military
10 service does not exceed the period prescribed by that Act. If a
11 member sustains an injury while on military leave under the terms of
12 the federal reemployment Act, pension benefits are payable based on
13 the off-duty disability benefit provisions prescribed by Section
14 6(e) of this article. If a member dies while on military leave
15 under the terms of the federal reemployment Act, death benefits are
16 payable to eligible survivors based on the off-duty death benefits
17 prescribed by Section 7 of this article. This subsection is
18 intended to comply with the federal reemployment Act. The board may
19 make, maintain, and amend policies and procedures as desirable or
20 necessary to implement the federal reemployment Act. In this
21 subsection, "federal reemployment Act" means the Uniformed
22 Services Employment and Reemployment Rights Act of 1994 (38 U.S.C.
23 Section 4301 et seq.), as amended.

24 (f) A member, eligible survivor, or beneficiary who is
25 entitled to receive a benefit payment under this article is
26 entitled to receive the benefit beginning on the date the member
27 ceases to carry out the member's regular duties as a firefighter,

1 notwithstanding the fact that the member may remain on the payroll
2 of the member's fire department or receive sick leave, vacation, or
3 other pay after the effective date of termination of the member's
4 regular duties as a firefighter. In this article, an authorization
5 to receive a benefit "beginning on the effective date of the
6 member's termination of active service" includes authority for the
7 member to instead elect to make the member's pension effective on
8 the date the member ceases to carry out the member's regular duties
9 as a firefighter. If there is a delay in beginning payment of
10 benefits resulting from the requirements of Section 6(h) [~~6(g)~~] of
11 this article for disability pensions, the member or beneficiary
12 shall, when the disability pension is approved by the board, be paid
13 the full amount of the disability pension that has accrued since the
14 effective date of termination of the member's regular duties as a
15 firefighter.

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

26 (m) A benefit payable under this article because of the
27 death of a member or eligible beneficiary may not be paid to a

1 person convicted of causing that death but instead shall be paid as
2 if the convicted person predeceased the deceased member or
3 beneficiary. If no beneficiary is entitled to the benefit as a
4 result, the benefit shall be paid to the decedent's estate. Except
5 as otherwise permitted by this subsection with respect to
6 suspension of benefits, the board is not required to withhold
7 payment to a person convicted of causing the death of a member or
8 eligible beneficiary until the board receives actual notice of the
9 conviction of that person. The board may suspend payment of a
10 benefit payable on the death of a member or an eligible beneficiary
11 on the indictment of the person who would otherwise be entitled to
12 the benefit, and the suspension remains in effect until the board
13 determines that a final disposition of the charges relating to the
14 cause of death has occurred. If a benefit payment is suspended
15 under this subsection and the person is not convicted, the benefit
16 again becomes payable with interest computed at the rate earned by
17 the fund during the time the benefit payment was suspended. For
18 purposes of this subsection, a person has been convicted of causing
19 the death of a member or eligible beneficiary if:

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

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

1 (n) If one or more persons have been given a power of
2 attorney effective to direct distribution of benefits to any person
3 eligible to receive benefits under this article and the fund
4 receives conflicting directions as to those distributions, the fund
5 may withhold benefits until either the final result of judicial
6 proceedings determining which directive prevails or the fund
7 receives a signed agreement between attorneys-in-fact, and
8 principals, if applicable, on distribution directives that
9 completely resolves the conflict. The fund may not be made a party
10 to any proceeding or suit concerning or involving the distribution
11 of benefits under conflicting directives.

12 (o) The fund may offset amounts received wrongly or in error
13 from the fund by any person receiving benefit payments under this
14 article by making deductions from future benefit payments otherwise
15 payable to the person or the person's beneficiaries. Deductions
16 from future payments for an overpayment may be made only for an
17 overpayment made during the three years preceding the date the
18 board discovers or discovered the overpayment. The board may not
19 recover an overpayment from a recipient if the overpayment was made
20 more than three years before the date the board discovers or
21 discovered the error. The limitation provided by this section does
22 not apply to an overpayment that a reasonable person should know the
23 person is not entitled to receive. The remedy provided by this
24 subsection is not exclusive of any other remedy available to the
25 fund.

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

1 (c) Each member in active service shall make contributions
2 to the fund in an amount equal to 8.35 [~~7.7~~] percent of the member's
3 salary at the time of the contribution, and as of July 1, 2004, in an
4 amount equal to nine percent of the member's salary at the time of
5 the contribution. The governing body of the municipality shall
6 deduct the contributions from the member's salary and shall forward
7 the contributions to the fund as soon as practicable.

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

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

1 (a) A person who becomes a firefighter in a municipality to
2 which this article applies may receive service credit for prior
3 employment with the fully paid fire department of another
4 municipality in this state with a similar fund benefiting only
5 firefighters of that municipality to which the firefighter
6 contributed if:

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

9 (2) the firefighter passes a physical examination
10 [~~taken at the firefighter's expense and performed by a physician~~
11 ~~selected by the board~~];

12 (3) the firefighter pays into the fund an amount equal
13 to the total contribution the firefighter would have made had the
14 firefighter been employed by the municipality, at the
15 municipality's pay scale, instead of the municipality by which the
16 firefighter was previously employed, plus six percent interest,
17 compounded annually;

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

20 (5) the firefighter has moved directly into employment
21 at the fire department from the fire department for which the prior
22 service credit is sought, without any intervening employment or
23 extended interruption.

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

27 (a) Information contained in records that are in the custody

1 of a fund established under this article concerning an individual
2 member, retiree, or beneficiary is not public information
3 [~~confidential~~] under Chapter 552, Government Code. The
4 information [~~, and~~] may not be disclosed in a form identifiable with
5 a specific individual unless:

6 (1) the information is disclosed to:

7 (A) the individual;

8 (B) the individual's attorney, guardian,
9 executor, administrator, or conservator, or other legal
10 representative of the individual's estate or court-approved small
11 estate or other person who the board determines is acting in the
12 interest of the individual or the individual's estate;

13 (C) a spouse or former spouse of the individual,
14 or the attorney of the spouse or former spouse, if [~~the board~~
15 ~~determines that~~] the information concerns [~~is relevant to~~] the
16 spouse's or former spouse's interest in member accounts, benefits,
17 or other amounts payable by the fund; or

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

20 (2) the information is disclosed under an
21 authorization of the board that specifies the reason for the
22 disclosure.

23 (b) Notwithstanding Subsection (a) of this section, the
24 fund may disclose [~~This section does not prevent the disclosure of~~]
25 the status or identity of an individual as a member, former member,
26 retiree, deceased member, or beneficiary of the fund, as well as the
27 individual's dates of service, date of death, last rank held, and

1 the divisions of the fire department of the municipality in which
2 service has been rendered.

3 (d) The release of information concerning members,
4 retirees, or beneficiaries to departments of the municipality or to
5 other municipal employee pension funds or systems of the
6 municipality, in order to implement or advance the purposes of this
7 article is permitted under this section. The release of that
8 information does not constitute any waiver of confidentiality by
9 the fund or any waiver as to confidentiality of the information
10 under the statutes and policies governing the receiving municipal
11 department or employee pension fund or system.

12 (e) The publication and provision by the fund of a retiree's
13 address, e-mail address, telephone number, dates of service, and
14 last rank held and of the divisions of the fire department of the
15 municipality in which service was rendered, within compilations or
16 directories of this information concerning fund retirees, is
17 permitted under this section. The fund, in its sole discretion, may
18 provide or distribute those compilations as it deems is in the best
19 interest of the retirees in general. A retiree may prevent the
20 publication under this subsection of information relating to the
21 retiree by giving advance written notice to the fund.

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

24 (b) The board may maintain a proportional retirement [~~If the~~
25 ~~board determines that the provisions governing a participating~~
26 ~~retirement system are compatible with the provisions governing the~~
27 ~~fund under this article, the board may establish the] program under~~

1 this section.

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

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