

1-1 By: Janek S.B. No. 297  
1-2 (In the Senate - Filed January 27, 2003; February 5, 2003,  
1-3 read first time and referred to Committee on Intergovernmental  
1-4 Relations; April 3, 2003, reported favorably by the following  
1-5 vote: Yeas 5, Nays 0; April 3, 2003, sent to printer.)

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

1-8 relating to a firefighters' relief and retirement fund in certain  
1-9 municipalities.

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

1-11 SECTION 1. Section 1, Article 6243e.2(1), Revised Statutes,  
1-12 is amended by renumbering Subdivision (1) as Subdivision (1-a) and  
1-13 amending Subdivisions (1) and (7) to read as follows:

1-14 (1) "Active service" means a status of current  
1-15 employment as a firefighter by the fire department of a  
1-16 municipality described by Section 2(a) of this article.

1-17 (1-a) "Average monthly salary" means one thirty-sixth  
1-18 of the member's salary as a firefighter for the member's highest 78  
1-19 biweekly pay periods during the member's participation in the fund  
1-20 or, if the member has participated in the fund for less than three  
1-21 years, the total salary paid to the member for the periods the  
1-22 member participated in the fund divided by the number of months the  
1-23 member has participated in the fund. If a member is not paid on the  
1-24 basis of biweekly pay periods, "average monthly salary" is  
1-25 determined on the basis of the number of pay periods under the  
1-26 payroll practices of the municipality sponsoring the fund that most  
1-27 closely correspond to 78 biweekly pay periods.

1-28 (7) "DROP account" means the notional account  
1-29 established to reflect the credits, contributions, and earnings [~~or~~  
1-30 ~~losses~~] of a member who has made a DROP election in accordance with  
1-31 Section 5 of this article.

1-32 SECTION 2. Subsection (b), Section 2, Article 6243e.2(1),  
1-33 Revised Statutes, is amended to read as follows:

1-34 (b) The board of trustees of the fund shall be known as the  
1-35 "(name of municipality) Firefighters' Relief and Retirement Fund  
1-36 Board of Trustees" and the fund shall be known as the "(name of  
1-37 municipality) Firefighters' Relief and Retirement Fund." [~~"Board~~  
1-38 ~~of Firefighters' Relief and Retirement Fund Trustees of \_\_\_\_\_,~~  
1-39 ~~Texas."~~] The board consists of 10 trustees, including:

1-40 (1) the mayor or an appointed representative of the  
1-41 mayor;

1-42 (2) the treasurer of the municipality or, if there is  
1-43 not a treasurer, the secretary, clerk, or other person who by law,  
1-44 charter provision, or ordinance performs the duty of treasurer of  
1-45 the municipality;

1-46 (3) five firefighters who are members of the fund;

1-47 (4) one person who is a retired firefighter and a  
1-48 member of the fund with at least 20 years of participation; and

1-49 (5) two persons, each of whom is a registered voter of  
1-50 the municipality, has been a resident of the municipality for at  
1-51 least three years preceding the date of initial appointment, and is  
1-52 not a municipal officer or employee.

1-53 SECTION 3. Section 3, Article 6243e.2(1), Revised Statutes,  
1-54 is amended by adding Subsections (j) through (p) to read as follows:

1-55 (j) The board may pay for with fund assets, and distribute  
1-56 to survivors of deceased firefighters, commemorative flags and  
1-57 similar memorabilia, having a value of \$75 or less, to honor service  
1-58 rendered by the firefighters.

1-59 (k) The board may accept gifts and donations to the fund.  
1-60 The gifts and donations shall be added to the fund for the use of the  
1-61 fund.

1-62 (l) The trustees, executive director, and employees of the  
1-63 fund are fully protected and free of liability for any action taken  
1-64 or omission made or any action or omission suffered by them in good

2-1 faith in the performance of their duties for the fund.

2-2 (m) A gathering of any number of trustees to investigate,  
 2-3 research, or review prospective or current investments, without  
 2-4 formal action by the trustees, is not a deliberation or meeting for  
 2-5 purposes of Chapter 551, Government Code, and is not required to be  
 2-6 open to the public.

2-7 (n) The board, or a committee of the board sitting in review  
 2-8 of medical or psychiatric records, may consider the medical or  
 2-9 psychiatric records of multiple individual applicants for  
 2-10 disability benefits within a single closed session under Section  
 2-11 551.078, Government Code, but any action on an application shall be  
 2-12 taken on an individual basis.

2-13 (o) The board may delegate all or part of its duties  
 2-14 concerning benefits provided under this article to a pension  
 2-15 benefits committee composed of five trustees appointed by the chair  
 2-16 of the board. All actions of the committee concerning benefits  
 2-17 provided under this article are final, unless otherwise provided by  
 2-18 the policies and procedures approved by the board. The chair of the  
 2-19 board may appoint a trustee as an alternate member of the committee.

2-20 (p) The board may delegate all or part of its duties under  
 2-21 this article concerning personnel matters, the making of fund  
 2-22 policies and procedures, and the conduct of other administrative  
 2-23 matters to a personnel and procedures committee composed of five  
 2-24 trustees appointed by the chair of the board. All actions of the  
 2-25 committee concerning these matters are final, unless otherwise  
 2-26 provided by the policies and procedures approved by the board or the  
 2-27 committee. The chair of the board may appoint a trustee as an  
 2-28 alternate member of the committee.

2-29 SECTION 4. Subsection (d), Section 4, Article 6243e.2(1),  
 2-30 Revised Statutes, is amended to read as follows:

2-31 (d) The total monthly benefit payable to a retired or  
 2-32 disabled member, other than a deferred retiree or active member who  
 2-33 has elected the DROP under Section 5(b) of this article, or payable  
 2-34 to an eligible survivor of a deceased member as provided by Section  
 2-35 7(a) or 7(b) of this article, shall be increased by the following  
 2-36 amounts: by \$100, beginning with the monthly payment made for July  
 2-37 1999; by \$25, beginning with the monthly payment made for July,  
 2-38 2000; and by \$25, beginning with the monthly payment made for July  
 2-39 2001. These additional benefits may not be increased under Section  
 2-40 11(c) of this article.

2-41 SECTION 5. Subsections (a), (c), (d), (e), (g), (i), (j),  
 2-42 (k), and (m), Section 5, Article 6243e.2(1), Revised Statutes, are  
 2-43 amended to read as follows:

2-44 (a) A member who is eligible to receive a service pension  
 2-45 under Section 4 of this article and who remains in active service  
 2-46 may elect to participate in the deferred retirement option plan  
 2-47 provided by this section. On subsequently terminating active  
 2-48 service, a member who elected the DROP may apply for a monthly  
 2-49 service pension under Section 4 of this article, except that the  
 2-50 effective date of the member's election to participate in the DROP  
 2-51 will be considered the member's retirement date for determining the  
 2-52 amount of the member's monthly service pension. The member may also  
 2-53 apply for any DROP benefit provided under this section on  
 2-54 terminating active service. An election to participate in the  
 2-55 DROP, once approved by the board, is irrevocable. A DROP  
 2-56 participant's monthly benefit at retirement is increased by two  
 2-57 percent of the amount of the member's original benefit for every  
 2-58 full year of participation in the DROP by the member. This increase  
 2-59 does not apply to benefits payable under Subsection (l) of this  
 2-60 section. This increase is applied to the member's benefit at  
 2-61 retirement and is not added to the member's DROP account. The total  
 2-62 increase under this subsection may not exceed 20 percent for 10  
 2-63 years of participation in the DROP by the member.

2-64 (c) After ~~Beginning in the month~~ a member's DROP election  
 2-65 becomes effective, an amount equal to the monthly service pension  
 2-66 the member would have received under Section 4 of this article and  
 2-67 Section 11(c) of this article, if applicable, had the member  
 2-68 terminated active service on the effective date of the member's  
 2-69 DROP election shall be credited to a DROP account maintained for the

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

3-5 (d) A member's DROP account shall be credited with earnings  
3-6 [~~or losses~~] at an annual rate equal to the average annual return  
3-7 earned by the fund over the five years preceding, but not including,  
3-8 the year during which the credit is given. Notwithstanding the  
3-9 preceding, however, the credit to the member's DROP account shall  
3-10 be at an annual rate of not less than five percent nor greater than  
3-11 10 percent, irrespective of actual earnings. Those earnings [~~or~~  
3-12 ~~losses~~] shall be computed and credited at a time and in a manner  
3-13 determined by the board, except that earnings [~~or losses~~] shall be  
3-14 credited not less frequently than once in each 13-month period and  
3-15 shall take into account partial years of participation in the DROP.  
3-16 If the member has not terminated active service, the member's DROP  
3-17 account may not be credited with earnings [~~or losses~~] after the 10th  
3-18 anniversary of the effective date of the member's DROP election.

3-19 (e) A member who terminates active service after  
3-20 participating in the DROP is entitled to receive, in addition to the  
3-21 member's service pension under Section 4 of this article, a benefit  
3-22 equal to the balance of the member's DROP account. [~~Unless the~~  
3-23 ~~member elects to receive partial distributions in accordance with~~  
3-24 ~~Subsection (f) of this section, the balance of a member's DROP~~  
3-25 ~~account shall be paid to the member in a single lump-sum payment as~~  
3-26 ~~soon as is administratively practicable after the member's~~  
3-27 ~~termination of active service.]~~

3-28 (g) If a member elects partial payments, for periods after a  
3-29 member terminates active service and before the member's DROP  
3-30 account is completely distributed, the member's DROP account shall  
3-31 be credited with earnings [~~or losses~~] of the fund as computed under  
3-32 Subsection (d) of this section [~~and reduced by an administrative~~  
3-33 ~~fee of one percent of the account balance each year, determined~~  
3-34 ~~before adjustment for earnings or losses for the year].~~

3-35 (i) For purposes of computing and providing service pension  
3-36 benefits under Section 4 of this article and for purposes of  
3-37 computing and providing death benefits under Section 7 of this  
3-38 article, the day immediately before the effective date of the DROP  
3-39 participant's election is considered to be the date the member  
3-40 terminates active service. A salary earned or additional years of  
3-41 participation completed after the member's DROP election becomes  
3-42 effective may not be considered in the computation of retirement or  
3-43 death benefits, except for the limited purpose of percentage  
3-44 increases provided under Subsection (a) of this section.

3-45 (j) If a DROP participant dies before complete distribution  
3-46 of the member's DROP account has been made, the member's DROP  
3-47 account balance shall be distributed to the member's eligible  
3-48 beneficiaries, determined as follows:

3-49 (1) if the member is survived by a spouse who was the  
3-50 member's spouse on the member's last day of active service and one  
3-51 or more eligible children, one-half of the member's DROP account  
3-52 balance shall be paid to that eligible spouse, and the remaining  
3-53 one-half shall be divided equally among the member's eligible  
3-54 children;

3-55 (2) if the member is survived by a spouse described by  
3-56 Subdivision (1) of this subsection, but not by an eligible child,  
3-57 the member's entire DROP account balance shall be paid to the  
3-58 surviving spouse;

3-59 (3) if the member is survived by one or more eligible  
3-60 children, but not by a spouse described by Subdivision (1) of this  
3-61 subsection, the member's DROP account balance shall be divided  
3-62 equally among the eligible children;

3-63 (4) if the member is not survived by a spouse described  
3-64 by Subdivision (1) of this subsection or an eligible child, the  
3-65 member's DROP account balance shall be divided equally among the  
3-66 member's eligible parents;

3-67 (5) if the member is not survived by a spouse described  
3-68 by Subdivision (1) of this subsection, an eligible child, or an  
3-69 eligible parent, the member's DROP account balance shall be

4-1 distributed in accordance with the member's beneficiary  
 4-2 designation filed with the board or, if the member has failed to  
 4-3 file a valid beneficiary designation, to the member's estate; ~~and~~

4-4 (6) if a member's spouse described by Subdivision (1)  
 4-5 of this subsection was not married to the member on the date the  
 4-6 member's DROP election became effective, the spouse shall receive a  
 4-7 reduced benefit equal to the benefit otherwise payable to the  
 4-8 surviving spouse under this subsection, multiplied by the  
 4-9 percentage of the period between the member's DROP election and the  
 4-10 date the member left active service during which the spouse and the  
 4-11 member were married, and the amount by which the spouse's benefit is  
 4-12 reduced shall be divided among any other eligible survivors as if  
 4-13 the member did not have an eligible spouse or, if there are no  
 4-14 eligible survivors, distributed in accordance with the member's  
 4-15 beneficiary designation filed with the board, or if the member  
 4-16 failed to file a valid beneficiary designation, to the member's  
 4-17 estate; and

4-18 (7) if the conditions described by Subdivision (1),  
 4-19 (2), or (6) of this subsection exist, the surviving spouse may elect  
 4-20 to maintain the DROP account with the fund in the same manner  
 4-21 described by Subsections (e), (f), and (g) of this section.

4-22 (k) An eligible beneficiary's share of a deceased member's  
 4-23 DROP account shall be distributed as soon as administratively  
 4-24 practicable after the member's death in the form of a single  
 4-25 lump-sum payment, unless the surviving spouse makes the election  
 4-26 permitted by Subsection (j)(7) of this section. All distributions  
 4-27 to beneficiaries under this subsection must be made in a manner and  
 4-28 at a time that comply with Section 401(a)(9) of the code.

4-29 (m) A DROP participant with a break in service may receive  
 4-30 service credit within DROP for days worked after the regular  
 4-31 expiration of the permitted DROP period. The service credit shall  
 4-32 be limited to the number of days in which the participant  
 4-33 experienced a break in service or the number of days required to  
 4-34 constitute 10 years of DROP participation, whichever is smaller. A  
 4-35 retired member who previously participated in the DROP and who  
 4-36 returns to active service is subject to the terms of this section in  
 4-37 effect at the time of the member's return to active service.

4-38 SECTION 6. Section 6, Article 6243e.2(1), Revised Statutes,  
 4-39 is amended by adding a new Subsection (g) and relettering existing  
 4-40 Subsections (g) and (h) to read as follows:

4-41 (g) The pension benefits committee shall review, on a  
 4-42 case-by-case basis, existing benefit payments to members, and to  
 4-43 survivors of deceased members, who retired as a result of a  
 4-44 disability with 20 or more years of service under a provision of any  
 4-45 predecessor statute previously governing the fund. The review will  
 4-46 determine whether the member's disability was an on-duty disability  
 4-47 that satisfies the requirements of Subsection (b) or (c) of this  
 4-48 section. A determination that a member's disability was an on-duty  
 4-49 disability, as described above, will apply only on a prospective  
 4-50 basis beginning with January 1 of the calendar year in which the  
 4-51 determination is made, and will not affect the amount of the  
 4-52 member's or survivor's benefits. The committee shall make its  
 4-53 review and determination under this subsection on the basis of the  
 4-54 medical evidence and any other relevant non-testimonial evidence  
 4-55 that was previously submitted in connection with the prior  
 4-56 application for benefits, except that if the committee finds that  
 4-57 the historical file is insufficient to make the determination,  
 4-58 supplemental evidence of a probative nature may be adduced and  
 4-59 accepted to help make the determination.

4-60 (h) A person may not receive an on-duty or off-duty  
 4-61 disability pension from the fund unless the person or the person's  
 4-62 legal representative files with the board an application for  
 4-63 disability benefits, in the form approved by the board, and  
 4-64 certificates of the member's disability signed and sworn to by the  
 4-65 member and the member's physician or by a physician selected by the  
 4-66 board. The board may require other or additional evidence of  
 4-67 disability before authorizing payment of disability pension  
 4-68 benefits.

4-69 (i) ~~(h)~~ The board shall make all determinations

5-1 concerning benefits under this section in accordance with uniform  
 5-2 principles consistently applied on the basis of medical or other  
 5-3 evidence that the board determines is necessary or desirable.

5-4 SECTION 7. Subsections (b), (e), and (g), Section 7,  
 5-5 Article 6243e.2(1), Revised Statutes, are amended to read as  
 5-6 follows:

5-7 (b) If a member's eligible spouse was married to the member  
 5-8 for less than five years and was not married to the member at the  
 5-9 time the member left active service, the eligible spouse shall be  
 5-10 paid a reduced benefit equal to the benefit otherwise payable to the  
 5-11 eligible spouse under this section, multiplied by the number of  
 5-12 months [~~time~~] the eligible spouse was married to the member, and  
 5-13 divided by 60 months [~~five years~~]. Any benefit the eligible spouse  
 5-14 may be granted under Section 10A of this article shall be reduced in  
 5-15 the same proportion as the reduced benefit provided by this  
 5-16 subsection. The amount by which the eligible spouse's benefit is  
 5-17 reduced shall be divided among any other eligible survivors as if  
 5-18 the member did not have an eligible spouse. This subsection may not  
 5-19 be construed to effect any reduction to an eligible spouse of  
 5-20 benefits otherwise payable under Section 4(d) of this article.

5-21 (e) In addition to the monthly death benefit provided under  
 5-22 Subsection (a) of this section, if an active member or a member  
 5-23 receiving a service pension under Section 4 of this article or a  
 5-24 disability pension under Section 6 of this article dies on or after  
 5-25 July 1, 1998, the member's eligible survivors are entitled to a  
 5-26 one-time \$5,000 death benefit, payable as a lump sum as follows:

5-27 (1) if the member is survived by an eligible spouse,  
 5-28 the eligible spouse is entitled to receive \$5,000;

5-29 (2) if the member is not survived by an eligible  
 5-30 spouse, the member's eligible children are entitled to receive  
 5-31 \$5,000, divided equally among those children;

5-32 (3) if the member is not survived by an eligible spouse  
 5-33 or an eligible child, the \$5,000 death benefit shall be divided  
 5-34 equally among the eligible parents of the deceased member; or

5-35 (4) if the member is not survived by an eligible  
 5-36 spouse, an eligible child, or an eligible parent, the \$5,000 death  
 5-37 benefit shall be paid to the deceased member's estate or to the  
 5-38 member's court-approved small estate through its legal  
 5-39 representative.

5-40 (g) If a member in active service dies and does not leave an  
 5-41 eligible survivor, or the eligible survivors unanimously elect such  
 5-42 a benefit in lieu of any other death benefit, a lump-sum benefit  
 5-43 shall be paid in an amount equal to the refund, if any, to which the  
 5-44 member would have been entitled under Section 8 of this article had  
 5-45 the member terminated service on the date of the member's death.  
 5-46 That lump-sum benefit shall be paid to the eligible survivors as  
 5-47 provided by Subsection (a) of this section or, if there are not any  
 5-48 eligible survivors, to the member's designated beneficiary. A  
 5-49 member's beneficiary must be designated before the member's death  
 5-50 on a form approved by the board. If more than one beneficiary is  
 5-51 designated, the benefit shall be divided equally among the  
 5-52 beneficiaries unless a different allocation is provided in the  
 5-53 designation. If a member fails to properly designate a  
 5-54 beneficiary, the benefit provided by this subsection shall be  
 5-55 payable to the member's estate or to the member's court-approved  
 5-56 small estate through its legal representative on application by the  
 5-57 estate or legal representative. Money payable under this  
 5-58 subsection may not escheat to the state.

5-59 SECTION 8. Section 11, Article 6243e.2(1), Revised  
 5-60 Statutes, is amended by amending Subsections (b), (d), (f), (h),  
 5-61 and (m) and adding Subsections (n), (o), and (p) to read as follows:

5-62 (b) The [~~After a member terminates active service, the~~]  
 5-63 amounts of all benefits that the member or the member's  
 5-64 beneficiaries may become entitled to receive from the fund shall be  
 5-65 computed on the basis of the schedule of benefits in effect for the  
 5-66 fund at the member's election either on the day the member leaves  
 5-67 [on the effective date of the termination of the member's] active  
 5-68 service or on the day the member ceases to carry out the member's  
 5-69 regular duties as a firefighter, without adjustment for any

6-1 subsequent increases of benefits unless those increases are  
 6-2 expressly made applicable to previously retired members or their  
 6-3 beneficiaries.

6-4 (d) In computing a member's years of participation, time  
 6-5 served in the armed forces of the nation during war or national  
 6-6 emergency is considered continuous service. Except for that  
 6-7 military service, credit for prior service shall be given only if a  
 6-8 member returns to active service as a firefighter before the fifth  
 6-9 anniversary of a previous effective date of termination.  
 6-10 Notwithstanding any provision of this article to the contrary,  
 6-11 contributions, benefits, and service credit with respect to  
 6-12 qualified military service shall be provided in accordance with  
 6-13 Section 414(u) of the code. A member who is engaged in active duty  
 6-14 in any of the military services of the United States shall receive  
 6-15 credited pension service for the period of the military service, if  
 6-16 the member returns to employment with the employer municipality's  
 6-17 fire department with an honorable discharge within the period  
 6-18 required by the federal reemployment Act and the period of military  
 6-19 service does not exceed the period prescribed by that Act. If a  
 6-20 member sustains an injury while on military leave under the terms of  
 6-21 the federal reemployment Act, pension benefits are payable based on  
 6-22 the off-duty disability benefit provisions prescribed by Section  
 6-23 6(e) of this article. If a member dies while on military leave  
 6-24 under the terms of the federal reemployment Act, death benefits are  
 6-25 payable to eligible survivors based on the off-duty death benefits  
 6-26 prescribed by Section 7 of this article. This subsection is  
 6-27 intended to comply with the federal reemployment Act. The board may  
 6-28 make, maintain, and amend policies and procedures as desirable or  
 6-29 necessary to implement the federal reemployment Act. In this  
 6-30 subsection, "federal reemployment Act" means the Uniformed  
 6-31 Services Employment and Reemployment Rights Act of 1994 (38 U.S.C.  
 6-32 Section 4301 et seq.), as amended.

6-33 (f) A member, eligible survivor, or beneficiary who is  
 6-34 entitled to receive a benefit payment under this article is  
 6-35 entitled to receive the benefit beginning on the date the member  
 6-36 ceases to carry out the member's regular duties as a firefighter,  
 6-37 notwithstanding the fact that the member may remain on the payroll  
 6-38 of the member's fire department or receive sick leave, vacation, or  
 6-39 other pay after the effective date of termination of the member's  
 6-40 regular duties as a firefighter. In this article, an authorization  
 6-41 to receive a benefit "beginning on the effective date of the  
 6-42 member's termination of active service" includes authority for the  
 6-43 member to instead elect to make the member's pension effective on  
 6-44 the date the member ceases to carry out the member's regular duties  
 6-45 as a firefighter. If there is a delay in beginning payment of  
 6-46 benefits resulting from the requirements of Section 6(h) [~~6(g)~~] of  
 6-47 this article for disability pensions, the member or beneficiary  
 6-48 shall, when the disability pension is approved by the board, be paid  
 6-49 the full amount of the disability pension that has accrued since the  
 6-50 effective date of termination of the member's regular duties as a  
 6-51 firefighter.

6-52 (h) A benefit payable under this article to a minor or  
 6-53 another person under a legal disability may be made only to the  
 6-54 legal guardian of the person, or as provided by Subsection (g) of  
 6-55 this section [estate of the minor]. [~~If a benefit becomes payable~~  
 6-56 to any other person under a legal disability, payment of that  
 6-57 benefit may be made only to the conservator or the guardian of that  
 6-58 person's estate appointed by a court of competent jurisdiction.] A  
 6-59 payment made in accordance with this section on behalf of a minor or  
 6-60 other person under a legal disability fully discharges the fund's  
 6-61 obligation to that person.

6-62 (m) A benefit payable under this article because of the  
 6-63 death of a member or eligible beneficiary may not be paid to a  
 6-64 person convicted of causing that death but instead shall be paid as  
 6-65 if the convicted person predeceased the deceased member or  
 6-66 beneficiary. If no beneficiary is entitled to the benefit as a  
 6-67 result, the benefit shall be paid to the decedent's estate. Except  
 6-68 as otherwise permitted by this subsection with respect to  
 6-69 suspension of benefits, the board is not required to withhold

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

7-14 (1) the person has pleaded guilty or nolo contendere  
 7-15 to, or the person has been found guilty by a court of competent  
 7-16 jurisdiction of, an offense at the trial of which it is established  
 7-17 that the person's intentional or knowing act or omission caused the  
 7-18 death of the member or eligible beneficiary, regardless of whether  
 7-19 sentence is imposed or probated; and

7-20 (2) an appeal of the conviction is not pending, and the  
 7-21 time provided for appeal has expired.

7-22 (n) If one or more persons have been given a power of  
 7-23 attorney effective to direct distribution of benefits to any person  
 7-24 eligible to receive benefits under this article and the fund  
 7-25 receives conflicting directions as to those distributions, the fund  
 7-26 may withhold benefits until either the final result of judicial  
 7-27 proceedings determining which directive prevails or the fund  
 7-28 receives a signed agreement between attorneys-in-fact, and  
 7-29 principals, if applicable, on distribution directives that  
 7-30 completely resolves the conflict. The fund may not be made a party  
 7-31 to any proceeding or suit concerning or involving the distribution  
 7-32 of benefits under conflicting directives.

7-33 (o) The fund may offset amounts received wrongly or in error  
 7-34 from the fund by any person receiving benefit payments under this  
 7-35 article by making deductions from future benefit payments otherwise  
 7-36 payable to the person or the person's beneficiaries. This remedy is  
 7-37 not exclusive of any other remedy available to the fund.

7-38 (p) A person who has a claim for a benefit under this article  
 7-39 and is not under a legal disability has until the second anniversary  
 7-40 of the date of eligibility for the benefit to apply to the fund for  
 7-41 the benefit. This subsection does not apply to any election made  
 7-42 under Subsection (f) of this section.

7-43 SECTION 9. Subsections (c) and (d), Section 13, Article  
 7-44 6243e.2(1), Revised Statutes, are amended to read as follows:

7-45 (c) Each member in active service shall make contributions  
 7-46 to the fund in an amount equal to 8.35 [~~7.7~~] percent of the member's  
 7-47 salary at the time of the contribution, and as of July 1, 2004, in an  
 7-48 amount equal to nine percent of the member's salary at the time of  
 7-49 the contribution. The governing body of the municipality shall  
 7-50 deduct the contributions from the member's salary and shall forward  
 7-51 the contributions to the fund as soon as practicable.

7-52 (d) The municipality shall make monthly contributions to  
 7-53 the fund in an amount equal to the product of the contribution rate  
 7-54 certified by the board and the aggregate salaries paid to members of  
 7-55 the fund during the month for which the contribution is made. The  
 7-56 board shall certify the municipality's contribution rate for each  
 7-57 year or portion of a year based on the results of actuarial  
 7-58 valuations made at least every three years. The municipality's  
 7-59 contribution rate shall be composed of the normal cost plus the  
 7-60 level percentage of salary payment required to amortize the  
 7-61 unfunded actuarial liability over a constant period of 30 [~~40~~]  
 7-62 years [~~beginning on January 1, 1983,~~] computed on the basis of an  
 7-63 acceptable actuarial reserve funding method approved by the board.  
 7-64 Notwithstanding any other provision of this article, the  
 7-65 contributions by the municipality, when added to any contributions  
 7-66 with respect to a qualified governmental excess benefit arrangement  
 7-67 maintained in accordance with Section 14(c) of this article, may  
 7-68 not be less than twice the amount paid into the fund by  
 7-69 contributions of the members.

8-1 SECTION 10. Subsection (a), Section 16, Article 6243e.2(1),  
8-2 Revised Statutes, is amended to read as follows:

8-3 (a) A person who becomes a firefighter in a municipality to  
8-4 which this article applies may receive service credit for prior  
8-5 employment with the fully paid fire department of another  
8-6 municipality in this state with a similar fund benefiting only  
8-7 firefighters of that municipality to which the firefighter  
8-8 contributed if:

8-9 (1) the firefighter is under 36 years of age at the  
8-10 time of applying to the fund;

8-11 (2) the firefighter passes a physical examination  
8-12 ~~[taken at the firefighter's expense and performed by a physician~~  
8-13 ~~selected by the board];~~

8-14 (3) the firefighter pays into the fund an amount equal  
8-15 to the total contribution the firefighter would have made had the  
8-16 firefighter been employed by the municipality, at the  
8-17 municipality's pay scale, instead of the municipality by which the  
8-18 firefighter was previously employed, plus six percent interest,  
8-19 compounded annually;

8-20 (4) the firefighter applies for that credit not later  
8-21 than the 60th day after the date on which membership begins; and

8-22 (5) the firefighter has moved directly into employment  
8-23 at the fire department from the fire department for which the prior  
8-24 service credit is sought, without any intervening employment or  
8-25 extended interruption.

8-26 SECTION 11. Section 17, Article 6243e.2(1), Revised  
8-27 Statutes, is amended by amending Subsections (a) and (b) and adding  
8-28 Subsections (d) and (e) to read as follows:

8-29 (a) Information contained in records that are in the custody  
8-30 of a fund established under this article concerning an individual  
8-31 member, retiree, or beneficiary is not public information  
8-32 ~~[confidential]~~ under Chapter 552, Government Code. The  
8-33 information[, and] may not be disclosed in a form identifiable with  
8-34 a specific individual unless:

8-35 (1) the information is disclosed to:

8-36 (A) the individual;

8-37 (B) the individual's attorney, guardian,  
8-38 executor, administrator, or conservator, or other legal  
8-39 representative of the individual's estate or court-approved small  
8-40 estate or other person who the board determines is acting in the  
8-41 interest of the individual or the individual's estate;

8-42 (C) a spouse or former spouse of the individual,  
8-43 or the attorney of the spouse or former spouse, if [the board  
8-44 determines that] the information concerns [is relevant to] the  
8-45 spouse's or former spouse's interest in member accounts, benefits,  
8-46 or other amounts payable by the fund; or

8-47 (D) a person with written authorization from the  
8-48 individual to receive the information; or

8-49 (2) the information is disclosed under an  
8-50 authorization of the board that specifies the reason for the  
8-51 disclosure.

8-52 (b) Notwithstanding Subsection (a) of this section, the  
8-53 fund may disclose [This section does not prevent the disclosure of]  
8-54 the status or identity of an individual as a member, former member,  
8-55 retiree, deceased member, or beneficiary of the fund, as well as the  
8-56 individual's dates of service, date of death, and last rank held and  
8-57 the divisions of the fire department of the municipality in which  
8-58 service has been rendered.

8-59 (d) The release of information concerning members,  
8-60 retirees, or beneficiaries to departments of the municipality or to  
8-61 other municipal employee pension funds or systems of the  
8-62 municipality, in order to implement or advance the purposes of this  
8-63 article is permitted under this section. The release of that  
8-64 information does not constitute any waiver of confidentiality by  
8-65 the fund or any waiver as to confidentiality of the information  
8-66 under the statutes and policies governing the receiving municipal  
8-67 department or employee pension fund or system.

8-68 (e) The publication and provision by the fund of a retiree's  
8-69 address, e-mail address, telephone number, dates of service, and



9-1 last rank held and the divisions of the fire department of the  
9-2 municipality in which service was rendered, within compilations or  
9-3 directories of this information concerning fund retirees, is  
9-4 permitted under this section. The fund, in its sole discretion, may  
9-5 provide or distribute those compilations as it deems is in the best  
9-6 interest of the retirees in general. A retiree may prevent the  
9-7 publication under this subsection of information relating to the  
9-8 retiree by giving advance written notice to the fund.

9-9 SECTION 12. Subsection (b), Section 18, Article 6243e.2(1),  
9-10 Revised Statutes, is amended to read as follows:

9-11 (b) The board may maintain a proportional retirement [~~If the~~  
9-12 ~~board determines that the provisions governing a participating~~  
9-13 ~~retirement system are compatible with the provisions governing the~~  
9-14 ~~fund under this article, the board may establish the~~] program under  
9-15 this section.

9-16 SECTION 13. Subsection (h), Section 13, Article 6243e.2(1),  
9-17 Revised Statutes, is repealed.

9-18 SECTION 14. This Act takes effect September 1, 2003.

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