

1-1 By: McClendon (Senate Sponsor - Madla) H.B. No. 2374
1-2 (In the Senate - Received from the House May 2, 2005;
1-3 May 3, 2005, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 12, 2005, reported favorably by
1-5 the following vote: Yeas 5, Nays 0; May 12, 2005, sent to
1-6 printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the retirement system for firefighters and police
1-10 officers in certain municipalities.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 2.01(b), Chapter 824, Acts of the 73rd
1-13 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
1-14 Civil Statutes), is amended to read as follows:

1-15 (b) The board, through its secretary, shall administer the
1-16 required elections of the active member and retiree representatives
1-17 by mailing ballots to all eligible members, retirees, or
1-18 beneficiaries. Only retirees and surviving spouses who are
1-19 currently receiving benefits from the fund are eligible to vote for
1-20 the retiree representatives. If no candidate receives a majority
1-21 of the votes cast for any trustee position, the board shall hold a
1-22 run-off election in which the only candidates are the candidates
1-23 who received the highest and second-highest number of votes cast.
1-24 If a candidate for trustee is unopposed in an election, the board
1-25 shall certify the candidate as elected to the board on the executive
1-26 director's certification that the candidate is eligible and is
1-27 unopposed for election.

1-28 SECTION 2. Sections 2.03(d) and (e), Chapter 824, Acts of
1-29 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
1-30 Vernon's Texas Civil Statutes), are amended to read as follows:

1-31 (d) A removal election under this section must be held and
1-32 completed within 90 [~~30~~] days after the date the board certifies
1-33 that a proper petition for a removal election has been signed by at
1-34 least 20 percent of the membership from which the trustee was
1-35 elected. A trustee's term of service ends on the entry of an order
1-36 by the board declaring that a majority of the votes cast in a
1-37 removal election under this section favor removal.

1-38 (e) On the date the board enters an order under Subsection
1-39 (d) of this section, the board shall call a special election [~~to be~~
1-40 ~~held not less than 20 nor more than 30 days after that date~~] to fill
1-41 the vacancy for the unexpired term of the trustee who was removed.
1-42 The trustee who was removed is not eligible to run in the special
1-43 election but is eligible to run in all subsequent board elections.

1-44 SECTION 3. Section 3.01, Chapter 824, Acts of the 73rd
1-45 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
1-46 Civil Statutes), is amended by adding Subsections (f)-(j) to read
1-47 as follows:

1-48 (f) Attendance by any number of the trustees at a conference
1-49 or gathering to research prospective investments or review current
1-50 ones, to attend professional training, or otherwise attend to their
1-51 fiduciary responsibilities, during which no formal discussion of
1-52 public business takes place and no formal action is taken, is not a
1-53 deliberation or meeting within the meaning of Chapter 551,
1-54 Government Code, and is not required to be open to the public.

1-55 (g) A trustee of the fund is immune from liability for an
1-56 action or omission made by the trustee in the performance of the
1-57 trustee's official duties for the fund that is made in good faith.

1-58 (h) Records that are in the custody of the board concerning
1-59 a member, former member, retiree, deceased retiree, beneficiary, or
1-60 alternate payee are not public information under Chapter 552,
1-61 Government Code, and may not be disclosed in a form identifiable to
1-62 a specific individual unless:

1-63 (1) the information is disclosed to:

1-64 (A) the individual or the individual's attorney,

2-1 guardian, executor, administrator, or conservator, or another
 2-2 person whom the executive director determines from written
 2-3 documentation to be acting in the interest of the individual or the
 2-4 individual's estate;

2-5 (B) a spouse or former spouse of the individual,
 2-6 if the executive director determines that the information is
 2-7 relevant to the spouse's or former spouse's interest in a member's
 2-8 accounts or benefits or other amounts payable by the pension
 2-9 system;

2-10 (C) a government official or employee seeking the
 2-11 information in order to perform the duties of the official or
 2-12 employee; or

2-13 (D) a person authorized by the individual in
 2-14 writing to receive the information; or

2-15 (2) the information is disclosed under a subpoena and
 2-16 the executive director of the fund or the executive director's
 2-17 designee determines that the individual will have a reasonable
 2-18 opportunity to contest the subpoena.

2-19 (i) Subsection (h) of this section does not prevent the
 2-20 disclosure of the status or identity of an individual as a member,
 2-21 former member, retiree, deceased member, deceased retiree,
 2-22 beneficiary, or alternate payee of the fund.

2-23 (j) A determination and disclosure under Subsection (h) of
 2-24 this section does not require notice to the individual member,
 2-25 retiree, beneficiary, or alternate payee.

2-26 SECTION 4. Section 3.03, Chapter 824, Acts of the 73rd
 2-27 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
 2-28 Civil Statutes), is amended by adding Subsection (e) to read as
 2-29 follows:

2-30 (e) The board may pay for the cost of counseling for members
 2-31 of the fund regarding retirement matters.

2-32 SECTION 5. Section 5.015, Chapter 824, Acts of the 73rd
 2-33 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
 2-34 Civil Statutes), is amended by amending Subsections (d) and (e) and
 2-35 adding Subsections (d-1) and (e-1) to read as follows:

2-36 (d) The amount of a lump-sum payment to which a member
 2-37 making a Back DROP election is entitled shall be computed in the
 2-38 manner provided by this subsection and Subsection (d-1) of this
 2-39 section. The member's retirement annuity shall be computed in the
 2-40 manner provided by Section 5.01 of this Act, except that the amount
 2-41 of service credit and average total salary [~~retirement date~~] used
 2-42 in making that computation shall be determined in accordance with
 2-43 [~~is the retirement date computed as provided by~~] this subsection.
 2-44 For [~~The member's retirement annuity as so computed shall be~~
 2-45 ~~divided by 12 to compute the member's monthly pension. The member's~~
 2-46 ~~monthly pension multiplied by the number of full months elected by~~
 2-47 ~~the member under Subsection (b)(1) of this section is the amount of~~
 2-48 ~~the lump-sum payment to which the member is entitled. Solely for~~
 2-49 ~~purposes of this subsection, [computing] the member's average total~~
 2-50 ~~salary shall be computed based on [monthly pension under this~~
 2-51 ~~subsection, the member's retirement date is] the member's Back DROP~~
 2-52 ~~retirement date, which is the member's actual retirement date less~~
 2-53 ~~the amount of time the member elects under Subsection (b)(1) of this~~
 2-54 ~~section. For purposes of this subsection, the member's service~~
 2-55 ~~credit shall be the member's service credit determined in~~
 2-56 ~~accordance with Section 5.01(g) of this Act less the amount of time~~
 2-57 ~~for:~~

2-58 (1) any service credit in excess of 34 years of
 2-59 service, other than service credit for sick leave unused on the date
 2-60 of actual retirement;

2-61 (2) any service credit given for sick leave unused on
 2-62 the date of actual retirement; and

2-63 (3) any service credit in excess of 20 years but not in
 2-64 excess of the amount permitted under Subsection (b)(1) of this
 2-65 section that the member elects for computing the amount of the
 2-66 lump-sum payment.

2-67 (d-1) The member's retirement annuity as computed under
 2-68 Subsection (d) of this section shall be divided by 12 to compute the
 2-69 member's monthly pension to be used to compute the lump-sum

3-1 payment. The member's monthly pension multiplied by the number of
 3-2 full months elected by the member under Subsection (b)(1) of this
 3-3 section is the amount of the lump-sum payment to which the member is
 3-4 entitled.

3-5 (e) For purposes of computing the monthly pension of a
 3-6 member making a Back DROP election, the member's retirement annuity
 3-7 shall be computed in the manner provided by Section 5.01 of this
 3-8 Act, except that:

3-9 (1) the amount of service credit [retirement date]
 3-10 used in making that computation shall be [is] the member's service
 3-11 credit determined in accordance with Section 5.01(g) of this Act
 3-12 [actual retirement date] less:

3-13 (A) the amount of time the member elects under
 3-14 Subsection (b)(1) of this section; and

3-15 (B) any service credit in excess of 34 years of
 3-16 service excluding any service credit for sick leave unused on the
 3-17 date of actual retirement; and

3-18 (2) the member's average total salary shall be
 3-19 computed as if the member's retirement date were the member's actual
 3-20 retirement date less the amount of time the member elects under
 3-21 Subsection (b)(1) of this section.

3-22 (e-1) The annuity computed under Subsection (e) of this
 3-23 section may not exceed the applicable limitations provided by
 3-24 Section 5.01 of this Act. The member's retirement annuity shall be
 3-25 divided by 12 to compute the member's monthly pension.

3-26 SECTION 6. Section 5.09(a), Chapter 824, Acts of the 73rd
 3-27 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
 3-28 Civil Statutes), is amended to read as follows:

3-29 (a) At or before its regular meeting in the month of March,
 3-30 the board annually shall review the Consumer's Price Index for All
 3-31 Urban Consumers (CPI-U), U.S. City Average or the nearest
 3-32 equivalent published by the United States Bureau of Labor
 3-33 Statistics for the preceding calendar year. If that index shows an
 3-34 increase during the preceding calendar year in the cost of living as
 3-35 compared with that index at the close of the previous year, the
 3-36 board shall order an increase of all service, disability, and death
 3-37 benefit retirement annuities by a percentage that varies by the
 3-38 date of the member's service or disability retirement, or, in the
 3-39 case of a member who died before retirement, the date on which the
 3-40 member died. If the member's service retirement, disability
 3-41 retirement, or death before retirement occurred before August 30,
 3-42 1971, the annuity shall be increased by a percentage equal to the
 3-43 percentage increase in the cost of living index. If the member's
 3-44 service retirement, disability retirement, or death before
 3-45 retirement occurred on or after August 30, 1971, but before October
 3-46 1, 1993 [~~1991~~], the annuity shall be increased as follows: if the
 3-47 percentage increase in the cost of living index is eight percent or
 3-48 less, the annuity shall be increased by a percentage equal to the
 3-49 percentage increase, and if the percentage increase in the cost of
 3-50 living index is more than eight percent, the annuity shall be
 3-51 increased by eight percent plus a percentage equal to 75 percent of
 3-52 the percentage increase that is more than eight percent. If the
 3-53 member's service retirement, disability retirement, or death
 3-54 before retirement occurred on or after October 1, 1993 [~~1991~~], the
 3-55 annuity shall be increased by a percentage equal to 75 percent of
 3-56 the percentage increase in the cost of living index. A percentage
 3-57 increase in annuities shall be rounded to the nearest one-tenth
 3-58 percentage point for a cost of living increase.

3-59 SECTION 7. Section 6.02, Chapter 824, Acts of the 73rd
 3-60 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
 3-61 Civil Statutes), is amended by amending Subsection (g) and adding
 3-62 Subsections (m) and (n) to read as follows:

3-63 (g) A child who is born after the date of retirement of the
 3-64 member is not entitled to a death benefit annuity under this Act
 3-65 unless the retiree was married to the other parent of the child on
 3-66 the date of retirement. A surviving spouse of a retiree who was not
 3-67 married to the retiree until after the retiree's retirement is
 3-68 entitled to receive only the benefits [~~benefit~~], if any, provided
 3-69 under Subsection (m) of this section and Section 6.08 of this Act.

4-1 (m) Subject to Subsection (n) of this section, a service
 4-2 retiree who marries after the date of retirement may elect to
 4-3 receive a reduced annuity during the retiree's lifetime and provide
 4-4 for a death benefit annuity to the retiree's surviving spouse. The
 4-5 amount of the reduced annuity and spousal death benefit shall be
 4-6 determined by the fund's actuary and shall be actuarially
 4-7 equivalent to the annuity the retiree was receiving immediately
 4-8 before the election under this subsection. An election made under
 4-9 this subsection may be canceled by the retiree before the retiree's
 4-10 death on the divorce of the retiree or the death of the retiree's
 4-11 spouse. After the election is canceled, the retiree shall be
 4-12 entitled to receive the same annuity to which the retiree would have
 4-13 been entitled if the election had not been made. A retiree who
 4-14 cancels an election under this subsection is not entitled to any
 4-15 additional benefits for the period of time before the cancellation.
 4-16 The board shall adopt policies and procedures governing elections
 4-17 and cancellation of elections under this subsection. An election
 4-18 or cancellation of an election made under this subsection must be
 4-19 made in accordance with the board's policies and procedures.

4-20 (n) A retiree may not make an election under Subsection (m)
 4-21 of this section at a time in which there are one or more dependent
 4-22 children of the retiree who would be entitled to a death benefit
 4-23 under this section on the death of the retiree.

4-24 SECTION 8. Section 6.08, Chapter 824, Acts of the 73rd
 4-25 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
 4-26 Civil Statutes), is amended by amending Subsection (b) and adding
 4-27 Subsection (c) to read as follows:

4-28 (b) A surviving spouse [~~under this section~~] is not entitled
 4-29 to a lump-sum death benefit under this section if a child is
 4-30 entitled to receive benefits under this Act.

4-31 (c) A surviving spouse is not entitled to a lump-sum death
 4-32 benefit under this section if the surviving spouse is entitled to an
 4-33 annuity under Section 6.02(m) of this Act.

4-34 SECTION 9. Section 6.11, Chapter 824, Acts of the 73rd
 4-35 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
 4-36 Civil Statutes), is amended to read as follows:

4-37 Sec. 6.11. DEATH BENEFIT FOR ACTIVE MEMBER'S ESTATE. If an
 4-38 active member dies and does not leave a beneficiary, the estate of
 4-39 the deceased member is entitled to a death benefit payment from the
 4-40 fund in an [the] amount equal to the greater of:

4-41 (1) five times the amount of an annuity computed in
 4-42 accordance with Section 5.01(f) of this Act using the deceased
 4-43 member's service credit and average total salary as of the date of
 4-44 death; [of \$10,000] or

4-45 (2) the refund of the member's contributions that were
 4-46 picked up by the municipality[~~, whichever amount is greater~~].

4-47 SECTION 10. Section 6.115, Chapter 824, Acts of the 73rd
 4-48 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
 4-49 Civil Statutes), is amended to read as follows:

4-50 Sec. 6.115. DEATH BENEFIT FOR RETIREE'S ESTATE. If a
 4-51 retiree dies and does not leave a beneficiary, the estate of the
 4-52 retiree is entitled to a death benefit payment from the fund in an
 4-53 [the] amount equal to five times the amount of the annuity awarded
 4-54 by the board effective on [of] the retiree's date of retirement,
 4-55 [contributions that were picked up by the municipality] less any
 4-56 retirement or disability annuity and any lump sum under Section
 4-57 5.015 of this Act paid to the retiree.

4-58 SECTION 11. Sections 6.14(h) and (l), Chapter 824, Acts of
 4-59 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
 4-60 Vernon's Texas Civil Statutes), are amended to read as follows:

4-61 (h) In determining the annuity under Subsection (e) of this
 4-62 section for a surviving spouse whose death benefit annuity is
 4-63 limited by Section 6.02(b) of this Act, the deceased member's
 4-64 service credit is the lesser of:

4-65 (1) the deceased member's service credit computed as
 4-66 provided by Section 5.01(g) of this Act [27 years], less the number
 4-67 of months elected by the surviving spouse under Subsection (f) of
 4-68 this section; or

4-69 (2) 27 years.

5-1 (1) In determining the reduced annuity under Subsection (j)
5-2 of this section for a surviving spouse whose death benefit annuity
5-3 is limited by Section 6.02(b) of this Act, the deceased member's
5-4 service credit is the lesser of:

5-5 (1) the deceased member's service credit computed as
5-6 provided by Section 5.01(g) of this Act [~~27 years~~], less the number
5-7 of months elected by the surviving spouse under Subsection (f) of
5-8 this section; or

5-9 (2) 27 years.

5-10 SECTION 12. Section 7.06, Chapter 824, Acts of the 73rd
5-11 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
5-12 Civil Statutes), is amended to read as follows:

5-13 Sec. 7.06. INVESTMENT CONSULTANT [~~MANAGER~~] QUALIFICATIONS.
5-14 In appointing investment consultants [~~managers~~], the board shall
5-15 require that the investment consultant [~~manager~~] be:

5-16 (1) registered under the Investment Advisors Act of
5-17 1940 (15 U.S.C. Section 80b-1 et seq.) and its subsequent
5-18 amendments;

5-19 (2) a bank as defined by that Act; or

5-20 (3) an insurance company qualified to perform
5-21 investment services under the laws of more than one state.

5-22 SECTION 13. Sections 2.04(b) and 7.01, Chapter 824, Acts of
5-23 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
5-24 Vernon's Texas Civil Statutes), are repealed.

5-25 SECTION 14. This Act takes effect October 1, 2005.

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