

1-1 By: Madla S.B. No. 1088  
1-2 (In the Senate - Filed March 8, 2005; March 21, 2005, read  
1-3 first time and referred to Committee on Intergovernmental  
1-4 Relations; March 23, 2005, reported favorably by the following  
1-5 vote: Yeas 5, Nays 0; March 23, 2005, sent to printer.)

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

1-8 relating to the retirement system for firefighters and police  
1-9 officers in certain municipalities.

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

1-11 SECTION 1. Subsection (b), Section 2.01, Chapter 824, Acts  
1-12 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,  
1-13 Vernon's Texas Civil Statutes), is amended to read as follows:

1-14 (b) The board, through its secretary, shall administer the  
1-15 required elections of the active member and retiree representatives  
1-16 by mailing ballots to all eligible members, retirees, or  
1-17 beneficiaries. Only retirees and surviving spouses who are  
1-18 currently receiving benefits from the fund are eligible to vote for  
1-19 the retiree representatives. If no candidate receives a majority  
1-20 of the votes cast for any trustee position, the board shall hold a  
1-21 run-off election in which the only candidates are the candidates  
1-22 who received the highest and second-highest number of votes cast.  
1-23 If a candidate for trustee is unopposed in an election, the board  
1-24 shall certify the candidate as elected to the board on the executive  
1-25 director's certification that the candidate is eligible and is  
1-26 unopposed for election.

1-27 SECTION 2. Subsections (d) and (e), Sections 2.03, Chapter  
1-28 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article  
1-29 6243o, Vernon's Texas Civil Statutes), are amended to read as  
1-30 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) through (j)  
1-47 to read 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 to otherwise attend to  
1-51 their fiduciary responsibilities, during which no formal  
1-52 discussion of public business takes place and no formal action is  
1-53 taken, is not a deliberation or meeting within the meaning of  
1-54 Chapter 551, Government Code, and is not required to be open to the  
1-55 public.

1-56 (g) A trustee of the fund is immune from liability for an  
1-57 action or omission made by the trustee in the performance of the  
1-58 trustee's official duties for the fund that is made in good faith.

1-59 (h) Records that are in the custody of the board concerning  
1-60 a member, former member, retiree, deceased retiree, beneficiary, or  
1-61 alternate payee are not public information under Chapter 552,  
1-62 Government Code, and may not be disclosed in a form identifiable to  
1-63 a specific individual unless:

1-64 (1) the information is disclosed to:

2-1 (A) the individual or the individual's attorney,  
 2-2 guardian, executor, administrator, or conservator or another  
 2-3 person whom the executive director determines from written  
 2-4 documentation to be acting in the interest of the individual or the  
 2-5 individual's estate;

2-6 (B) a spouse or former spouse of the individual,  
 2-7 if the executive director determines that the information is  
 2-8 relevant to the spouse's or former spouse's interest in a member's  
 2-9 accounts or benefits or other amounts payable by the pension  
 2-10 system;

2-11 (C) a government official or employee seeking  
 2-12 the information in order to perform the duties of the official or  
 2-13 employee; or

2-14 (D) a person authorized by the individual in  
 2-15 writing to receive the information; or

2-16 (2) the information is disclosed under a subpoena and  
 2-17 the executive director of the fund or the executive director's  
 2-18 designee determines that the individual will have a reasonable  
 2-19 opportunity to contest the subpoena.

2-20 (i) Subsection (h) of this section does not prevent the  
 2-21 disclosure of the status or identity of an individual as a member,  
 2-22 former member, retiree, deceased member, deceased retiree,  
 2-23 beneficiary, or alternate payee of the fund.

2-24 (j) A determination and disclosure under Subsection (h) of  
 2-25 this section does not require notice to the individual member,  
 2-26 retiree, beneficiary, or alternate payee.

2-27 SECTION 4. Section 3.03, Chapter 824, Acts of the 73rd  
 2-28 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
 2-29 Civil Statutes), is amended by adding Subsection (e) to read as  
 2-30 follows:

2-31 (e) The board may pay for the cost of counseling for members  
 2-32 of the fund regarding retirement matters.

2-33 SECTION 5. Section 5.015, Chapter 824, Acts of the 73rd  
 2-34 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
 2-35 Civil Statutes), is amended by amending Subsections (d) and (e) and  
 2-36 adding Subsections (d-1) and (e-1) to read as follows:

2-37 (d) The amount of a lump-sum payment to which a member  
 2-38 making a Back DROP election is entitled shall be computed in the  
 2-39 manner provided by this subsection and Subsection (d-1) of this  
 2-40 section. The member's retirement annuity shall be computed in the  
 2-41 manner provided by Section 5.01 of this Act, except that the amount  
 2-42 of service credit and average total salary [~~retirement date~~] used  
 2-43 in making that computation shall be determined in accordance with  
 2-44 [~~is the retirement date computed as provided by~~] this subsection.  
 2-45 For [~~The member's retirement annuity as so computed shall be~~  
 2-46 ~~divided by 12 to compute the member's monthly pension. The member's~~  
 2-47 ~~monthly pension multiplied by the number of full months elected by~~  
 2-48 ~~the member under Subsection (b)(1) of this section is the amount of~~  
 2-49 ~~the lump-sum payment to which the member is entitled. Solely for]~~  
 2-50 purposes of this subsection, [computing] the member's average total  
 2-51 salary shall be computed based on [monthly pension under this  
 2-52 subsection, the member's retirement date is] the member's Back DROP  
 2-53 retirement date, which is the member's actual retirement date less  
 2-54 the amount of time the member elects under Subsection (b)(1) of this  
 2-55 section. For purposes of this subsection, the member's service  
 2-56 credit shall be the member's service credit determined in  
 2-57 accordance with Section 5.01(g) of this Act less the amount of time  
 2-58 for:

2-59 (1) any service credit in excess of 34 years of  
 2-60 service, other than service credit for sick leave unused on the date  
 2-61 of actual retirement;

2-62 (2) any service credit given for sick leave unused on  
 2-63 the date of actual retirement; and

2-64 (3) any service credit in excess of 20 years but not in  
 2-65 excess of the amount permitted under Subsection (b)(1) of this  
 2-66 section that the member elects for computing the amount of the  
 2-67 lump-sum payment.

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

3-1 member's monthly pension to be used to compute the lump-sum  
 3-2 payment. The member's monthly pension multiplied by the number of  
 3-3 full months elected by the member under Subsection (b)(1) of this  
 3-4 section is the amount of the lump-sum payment to which the member is  
 3-5 entitled.

3-6 (e) For purposes of computing the monthly pension of a  
 3-7 member making a Back DROP election, the member's retirement annuity  
 3-8 shall be computed in the manner provided by Section 5.01 of this  
 3-9 Act, except that:

3-10 (1) the amount of service credit [retirement date]  
 3-11 used in making that computation shall be [is] the member's service  
 3-12 credit determined in accordance with Section 5.01(g) of this Act  
 3-13 [actual retirement date] less:

3-14 (A) the amount of time the member elects under  
 3-15 Subsection (b)(1) of this section; and

3-16 (B) any service credit in excess of 34 years of  
 3-17 service excluding any service credit for sick leave unused on the  
 3-18 date of actual retirement; and

3-19 (2) the member's average total salary shall be  
 3-20 computed as if the member's retirement date were the member's actual  
 3-21 retirement date less the amount of time the member elects under  
 3-22 Subsection (b)(1) of this section.

3-23 (e-1) The annuity computed under Subsection (e) of this  
 3-24 section may not exceed the applicable limitations provided by  
 3-25 Section 5.01 of this Act. The member's retirement annuity shall be  
 3-26 divided by 12 to compute the member's monthly pension.

3-27 SECTION 6. Subsection (a), Section 5.09, Chapter 824, Acts  
 3-28 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,  
 3-29 Vernon's Texas Civil Statutes), is amended to read as follows:

3-30 (a) At or before its regular meeting in the month of March,  
 3-31 the board annually shall review the Consumer's Price Index for All  
 3-32 Urban Consumers (CPI-U), U.S. City Average or the nearest  
 3-33 equivalent published by the United States Bureau of Labor  
 3-34 Statistics for the preceding calendar year. If that index shows an  
 3-35 increase during the preceding calendar year in the cost of living as  
 3-36 compared with that index at the close of the previous year, the  
 3-37 board shall order an increase of all service, disability, and death  
 3-38 benefit retirement annuities by a percentage that varies by the  
 3-39 date of the member's service or disability retirement, or, in the  
 3-40 case of a member who died before retirement, the date on which the  
 3-41 member died. If the member's service retirement, disability  
 3-42 retirement, or death before retirement occurred before August 30,  
 3-43 1971, the annuity shall be increased by a percentage equal to the  
 3-44 percentage increase in the cost of living index. If the member's  
 3-45 service retirement, disability retirement, or death before  
 3-46 retirement occurred on or after August 30, 1971, but before October  
 3-47 1, 1993 [1991], the annuity shall be increased as follows: if the  
 3-48 percentage increase in the cost of living index is eight percent or  
 3-49 less, the annuity shall be increased by a percentage equal to the  
 3-50 percentage increase, and if the percentage increase in the cost of  
 3-51 living index is more than eight percent, the annuity shall be  
 3-52 increased by eight percent plus a percentage equal to 75 percent of  
 3-53 the percentage increase that is more than eight percent. If the  
 3-54 member's service retirement, disability retirement, or death  
 3-55 before retirement occurred on or after October 1, 1993 [1991], the  
 3-56 annuity shall be increased by a percentage equal to 75 percent of  
 3-57 the percentage increase in the cost of living index. A percentage  
 3-58 increase in annuities shall be rounded to the nearest one-tenth  
 3-59 percentage point for a cost of living increase.

3-60 SECTION 7. Section 6.02, Chapter 824, Acts of the 73rd  
 3-61 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
 3-62 Civil Statutes), is amended by amending Subsection (g) and adding  
 3-63 Subsections (m) and (n) to read as follows:

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

4-1 under Subsection (m) of this section and Section 6.08 of this Act.

4-2 (m) Subject to Subsection (n) of this section, a service  
 4-3 retiree who marries after the date of retirement may elect to  
 4-4 receive a reduced annuity during the retiree's lifetime and provide  
 4-5 for a death benefit annuity to the retiree's surviving spouse. The  
 4-6 amount of the reduced annuity and spousal death benefit shall be  
 4-7 determined by the fund's actuary and shall be actuarially  
 4-8 equivalent to the annuity the retiree was receiving immediately  
 4-9 before the election under this subsection. An election made under  
 4-10 this subsection may be canceled by the retiree before the retiree's  
 4-11 death on the divorce of the retiree or the death of the retiree's  
 4-12 spouse. After the election is canceled, the retiree shall be  
 4-13 entitled to receive the same annuity to which the retiree would have  
 4-14 been entitled if the election had not been made. A retiree who  
 4-15 cancels an election under this subsection is not entitled to any  
 4-16 additional benefits for the period of time before the cancellation.  
 4-17 The board shall adopt policies and procedures governing elections  
 4-18 and cancellation of elections under this subsection. An election  
 4-19 or cancellation of an election made under this subsection must be  
 4-20 made in accordance with the board's policies and procedures.

4-21 (n) A retiree may not make an election under Subsection (m)  
 4-22 of this section at a time in which there are one or more dependent  
 4-23 children of the retiree who would be entitled to a death benefit  
 4-24 under this section on the death of the retiree.

4-25 SECTION 8. Section 6.08, Chapter 824, Acts of the 73rd  
 4-26 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
 4-27 Civil Statutes), is amended by amending Subsection (b) and adding  
 4-28 Subsection (c) to read as follows:

4-29 (b) A surviving spouse ~~[under this section]~~ is not entitled  
 4-30 to a lump-sum death benefit under this section if a child is  
 4-31 entitled to receive benefits under this Act.

4-32 (c) A surviving spouse is not entitled to a lump-sum death  
 4-33 benefit under this section if the surviving spouse is entitled to an  
 4-34 annuity under Section 6.02(m) of this Act.

4-35 SECTION 9. Section 6.11, Chapter 824, Acts of the 73rd  
 4-36 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
 4-37 Civil Statutes), is amended to read as follows:

4-38 Sec. 6.11. DEATH BENEFIT FOR ACTIVE MEMBER'S ESTATE. If an  
 4-39 active member dies and does not leave a beneficiary, the estate of  
 4-40 the deceased member is entitled to a death benefit payment from the  
 4-41 fund in an [the] amount equal to the greater of:

4-42 (1) five times the amount of an annuity computed in  
 4-43 accordance with Section 5.01(f) of this Act using the deceased  
 4-44 member's service credit and average total salary as of the date of  
 4-45 death; [of \$10,000] or

4-46 (2) the refund of the member's contributions that were  
 4-47 picked up by the municipality[~~, whichever amount is greater~~].

4-48 SECTION 10. Section 6.115, Chapter 824, Acts of the 73rd  
 4-49 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
 4-50 Civil Statutes), is amended to read as follows:

4-51 Sec. 6.115. DEATH BENEFIT FOR RETIREE'S ESTATE. If a  
 4-52 retiree dies and does not leave a beneficiary, the estate of the  
 4-53 retiree is entitled to a death benefit payment from the fund in an an  
 4-54 [the] amount equal to five times the amount of the annuity awarded  
 4-55 by the board effective on [of] the retiree's date of retirement,  
 4-56 [contributions that were picked up by the municipality] less any  
 4-57 retirement or disability annuity and any lump sum under Section  
 4-58 5.015 of this Act paid to the retiree.

4-59 SECTION 11. Subsections (h) and (l), Section 6.14, Chapter  
 4-60 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article  
 4-61 6243o, Vernon's Texas Civil Statutes), are amended to read as  
 4-62 follows:

4-63 (h) In determining the annuity under Subsection (e) of this  
 4-64 section for a surviving spouse whose death benefit annuity is  
 4-65 limited by Section 6.02(b) of this Act, the deceased member's  
 4-66 service credit is the lesser of:

4-67 (1) the deceased member's service credit computed as  
 4-68 provided by Section 5.01(g) of this Act [27 years], less the number  
 4-69 of months elected by the surviving spouse under Subsection (f) of

5-1 this section; or

5-2 (2) 27 years.

5-3 (1) In determining the reduced annuity under Subsection (j)  
5-4 of this section for a surviving spouse whose death benefit annuity  
5-5 is limited by Section 6.02(b) of this Act, the deceased member's  
5-6 service credit is the lesser of:

5-7 (1) the deceased member's service credit computed as  
5-8 provided by Section 5.01(g) of this Act [~~27 years~~], less the number  
5-9 of months elected by the surviving spouse under Subsection (f) of  
5-10 this section; or

5-11 (2) 27 years.

5-12 SECTION 12. Section 7.06, Chapter 824, Acts of the 73rd  
5-13 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
5-14 Civil Statutes), is amended to read as follows:

5-15 Sec. 7.06. INVESTMENT CONSULTANT [~~MANAGER~~] QUALIFICATIONS.  
5-16 In appointing investment consultants [~~managers~~], the board shall  
5-17 require that the investment consultant [~~manager~~] be:

5-18 (1) registered under the Investment Advisors Act of  
5-19 1940 (15 U.S.C. Section 80b-1 et seq.) and its subsequent  
5-20 amendments;

5-21 (2) a bank as defined by that Act; or

5-22 (3) an insurance company qualified to perform  
5-23 investment services under the laws of more than one state.

5-24 SECTION 13. Subsection (b), Section 2.04, and Section 7.01,  
5-25 Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993  
5-26 (Article 6243o, Vernon's Texas Civil Statutes), are repealed.

5-27 SECTION 14. This Act takes effect October 1, 2005.

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