

By: McClendon

H.B. No. 2752

A BILL TO BE ENTITLED

AN ACT

relating to the pension retirement system in certain municipalities for firefighters and police.

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

SECTION 1. Section 1.02, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas Civil Statutes), is amended by amending Subdivision (15) and adding Subdivisions (4-a), (8-a), and (12-a) to read as follows:

(4-a) "Catastrophic injury" means irreparable physical bodily injury sustained by a member as a direct and immediate result of the member's engaging in an activity that:

(A) constitutes the performance of the member's duties as a firefighter or police officer;

(B) involves an extraordinary degree of risk of bodily injury or death; and

(C) does not result in death.

(8-a) "Disability" means a regular disability under Section 5.03(a) of this Act or a catastrophic injury disability under Section 5.03(a-1) of this Act.

(12-a) "Qualified mayoral designee" means an individual designated by the mayor of a municipality to which this Act applies who is a member or former member of the city council of, or an employee of, a municipality to which this Act applies.

(15) "Retirement annuity" means [~~monthly~~] pension

1 benefits payable to a retiree on an annual basis in accordance with  
2 this Act.

3 SECTION 2. Section 2.01(a), Chapter 824, Acts of the 73rd  
4 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
5 Civil Statutes), is amended to read as follows:

6 (a) The fund is governed by a board of trustees consisting  
7 of the following nine members:

8 (1) the mayor of a municipality to which this Act  
9 applies or a qualified mayoral designee;

10 (2) two members of the governing body of a  
11 municipality to which this Act applies, appointed by that governing  
12 body;

13 (3) two active members who are fire fighters below the  
14 rank of fire chief, elected by secret ballot by a majority of the  
15 votes cast by the members of the fire department;

16 (4) two active members who are police officers below  
17 the rank of police chief, elected by secret ballot by a majority of  
18 the votes cast by the members of the police department;

19 (5) a retiree representative of the fire department,  
20 elected by secret ballot by a majority of the votes cast by the  
21 retirees of the fire department and the surviving spouses who are  
22 receiving benefits with respect to deceased members or retirees of  
23 the fire department; and

24 (6) a retiree representative of the police department,  
25 elected by secret ballot by a majority of the votes cast by the  
26 retirees of the police department and the surviving spouses who are  
27 receiving benefits with respect to deceased members or retirees of

1 the police department.

2 SECTION 3. Section 2.02(a), Chapter 824, Acts of the 73rd  
3 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
4 Civil Statutes), is amended to read as follows:

5 (a) The mayor of a municipality to which this Act applies,  
6 or a qualified mayoral designee, serves on the board for the term of  
7 the mayor's office except that, if the mayor appoints a mayoral  
8 designee, the mayor may replace or remove that mayoral designee at  
9 the mayor's discretion. An individual designated by the mayor to  
10 serve on the board under this subsection may only serve on the board  
11 while the individual is a qualified mayoral designee.

12 SECTION 4. Section 5.01, Chapter 824, Acts of the 73rd  
13 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
14 Civil Statutes), is amended by amending Subsection (f) and adding  
15 Subsections (f-1), (i), and (j) to read as follows:

16 (f) The board shall compute the retirement annuity of a  
17 member who retires after September 30, 2001, but before October 1,  
18 2007, at the rate of 2-1/4 percent of the member's average total  
19 salary for each of the first 20 years of service, plus 4-1/2 percent  
20 of the member's average total salary for each of the next seven  
21 years of service, plus three percent of the member's average total  
22 salary for each of the next three years of service, plus one-half  
23 percent of the member's average total salary for each of the next  
24 four years of service, with fractional years of service prorated  
25 based on full months served as a contributing member. In making the  
26 computation for a year, the year is considered to begin on the first  
27 day a contribution is made. A retirement annuity under this

1 subsection may not exceed, as of the date of retirement, 87-1/2  
2 percent of the member's average total salary.

3 (f-1) The board shall compute the retirement annuity of a  
4 member who retires after September 30, 2007, at the rate of 2-1/4  
5 percent of the member's average total salary for each of the first  
6 20 years of service, plus five percent of the member's average total  
7 salary for each of the next seven years of service, plus two percent  
8 of the member's average total salary for each of the next three  
9 years of service, plus one-half percent of the member's average  
10 total salary for each of the next three years of service, with  
11 fractional years of service prorated based on full months served as  
12 a contributing member. In making the computation for a year, the  
13 year is considered to begin on the first day a contribution is made.  
14 A retirement annuity under this subsection may not exceed, as of the  
15 date of retirement, 87-1/2 percent of the member's average total  
16 salary.

17 (i) Beginning with the first monthly benefit payable by the  
18 fund after October 1, 2007:

19 (1) the monthly benefit payable by the fund to a  
20 retiree or a beneficiary of a deceased retiree or member as a result  
21 of a service retirement, disability retirement, or death of a  
22 member that occurred before October 1, 1989, increases by \$200 per  
23 month; and

24 (2) a monthly benefit that is divided and payable to  
25 more than one beneficiary in accordance with Section 6.02 of this  
26 Act increases by a total amount of \$200.

27 (j) Beginning with the first monthly benefit payable by the

1 fund after October 1, 2007:

2 (1) a monthly benefit payable by the fund to a retiree  
3 or a beneficiary of a deceased retiree or member that is less than  
4 \$1,850 per month, after taking into account the increase provided  
5 for in Subsection (i) of this section, increases to \$1,850 per  
6 month; and

7 (2) a monthly benefit that is divided and payable to  
8 more than one beneficiary in accordance with Section 6.02 of this  
9 Act increases to a total amount of \$1,850.

10 SECTION 5. Section 5.015(b), Chapter 824, Acts of the 73rd  
11 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
12 Civil Statutes), is amended to read as follows:

13 (b) The Back DROP election:

14 (1) results in a lump-sum payment for a number of full  
15 months of service elected by the member that does not exceed the  
16 lesser of the number of months of service credit the member has in  
17 excess of 20 years or 48 [~~36~~] months;

18 (2) is available only to a member who takes a service  
19 retirement; and

20 (3) must be made at the time of application for  
21 retirement.

22 SECTION 6. Section 5.03, Chapter 824, Acts of the 73rd  
23 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
24 Civil Statutes), is amended by amending Subsections (a) and (c) and  
25 adding Subsections (a-1), (a-2), and (g) to read as follows:

26 (a) An active member of the fund who is not eligible to  
27 receive a catastrophic injury disability annuity under Subsection

1 (a-1) of this section is eligible to retire and receive a regular  
2 disability retirement annuity if the member:

3 (1) makes a written application for regular disability  
4 retirement with the board;

5 (2) is permanently disabled through injury or disease  
6 so as to be unable to perform the duties of any available position  
7 in the department and has been off active duty for a continuous  
8 period of not less than 30 days before the date of the application  
9 for disability retirement;

10 (3) has had all member contributions required by this  
11 Act made on the member's behalf;

12 (4) is not on indefinite suspension as described in  
13 Subsection (d) of this section; and

14 (5) has authorized the release to the board of all  
15 medical records dated on or after the date of initial application  
16 for employment with the department.

17 (a-1) An active member of the fund is eligible to retire and  
18 receive a catastrophic injury disability retirement annuity if the  
19 member:

20 (1) makes a written application for catastrophic  
21 injury disability retirement with the board;

22 (2) is permanently so disabled as a result of a  
23 catastrophic injury as to:

24 (A) be unable to secure any type of third-party  
25 employment, or engage in any self-employment, other than sporadic  
26 third-party or self-employment; and

27 (B) have, as a result of the lack of employment,

1 an annual income less than the poverty level for one person in the  
2 48 contiguous states of the United States as provided under the  
3 poverty guidelines published from time to time by the United States  
4 Department of Health and Human Services, or similar guidelines  
5 selected by the board;

6 (3) has had all member contributions required by this  
7 Act made on the member's behalf;

8 (4) is not on indefinite suspension as described in  
9 Subsection (e) of this section; and

10 (5) has authorized the release to the board of all  
11 medical records dated on or after the date of initial application  
12 for employment with the department.

13 (a-2) The following diseases, disorders, or injuries are  
14 not catastrophic injuries:

15 (1) heart disease or lung disease contracted as a  
16 result of repeated exposure to occupational environmental  
17 conditions over a period of months or years;

18 (2) an anxiety disorder, including post-traumatic  
19 stress disorder; or

20 (3) a soft-tissue back, neck, or spine injury,  
21 including a sprain, strain, subluxation, or repetitive stress  
22 injury, that does not result in paralysis, as determined by a  
23 physician authorized or appointed by the board.

24 (c) Except as provided by Subsection (d) of this section, a  
25 member of the fund who is on suspension and who becomes disabled as  
26 a result of [~~receives a total and permanent disability resulting~~  
27 ~~from~~] an injury sustained or disease contracted [~~incurred~~] while

1 the member is on suspension is eligible for a disability retirement  
 2 annuity under Subsection (a) or (a-1) of this section, as  
 3 applicable, if the suspended member makes up each deducted  
 4 contribution lost by reason of the suspension not later than the  
 5 30th day after the later of the termination date of the suspension  
 6 or the exhaustion of any appeal with respect to the suspension. A  
 7 municipality to which this Act applies shall double-match all  
 8 contributions made by a member under this subsection.

9 (g) A disability retiree who becomes disabled before  
 10 October 1, 2007, and who is otherwise qualified to receive a  
 11 catastrophic injury disability retirement annuity under Subsection  
 12 (a-1) of this section is eligible to receive an annuity under that  
 13 subsection, subject to Section 5.04(a-2) of this Act.

14 SECTION 7. Section 5.04, Chapter 824, Acts of the 73rd  
 15 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
 16 Civil Statutes), is amended by amending Subsections (a) and (b) and  
 17 adding Subsections (a-1) and (a-2) to read as follows:

18 (a) A member who is eligible to retire and receive a  
 19 ~~[monthly]~~ disability retirement annuity under Section 5.03(a) of  
 20 this Act is entitled to receive an annuity from the fund equal to:

21 (1) 50 percent of ~~[the average of]~~ the member's average  
 22 total salary, if the member has served three years or more before  
 23 the date of retirement ~~[for the highest three years of the last five~~  
 24 ~~years, computed from the date of retirement, divided by 12]; ~~[or]~~~~

25 (2) ~~[if the member has served less than three years~~  
 26 ~~before the date of retirement,]~~ 50 percent of the member's average  
 27 monthly ~~[total]~~ salary as of the date of retirement multiplied by



1 12, if the member has served at least two months and less than three  
2 years before the date of retirement; or

3 (3) 50 percent of the member's average daily salary as  
4 of the date of retirement multiplied by 360, if the member has  
5 served less than two months before the date of retirement.

6 (a-1) Subject to Subsection (a-2) of this section a member  
7 who is eligible to retire and receive a catastrophic injury  
8 disability retirement annuity under Section 5.03(a-1) of this Act  
9 is entitled to receive an annuity from the fund equal to:

10 (1) 87.5 percent of the member's average total salary,  
11 if the member has served three years or more before the date of  
12 retirement;

13 (2) 87.5 percent of the member's average monthly  
14 salary as of the date of retirement multiplied by 12, if the member  
15 has served at least two months and less than three years before the  
16 date of retirement; or

17 (3) 87.5 percent of the member's average daily salary  
18 as of the date of retirement multiplied by 360, if the member has  
19 served less than two months before the date of retirement.

20 (a-2) An annuity awarded by the board under Subsection (a-1)  
21 of this section to a member who was previously awarded an annuity  
22 under Subsection (a) of this section shall be increased to equal the  
23 amount the annuity awarded under Subsection (a) of this section  
24 would have been if the annuity had been awarded under Subsection  
25 (a-1) of this section, taking into account the cost of living  
26 adjustment increases provided for in Section 5.09 of this Act. This  
27 subsection does not entitle the member to any additional payment

1 for the period before the effective date of the award under  
2 Subsection (a-1) of this section [~~, or a theoretical monthly~~  
3 ~~average if service is less than a full month~~].

4 (b) In making computations under this section, all [~~All~~]  
5 fractional years must be [~~under this section are~~] prorated based on  
6 full months served in [~~on~~] the [~~fire or police~~] department as a  
7 contributing member of the fund.

8 SECTION 8. Section 5.05, Chapter 824, Acts of the 73rd  
9 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
10 Civil Statutes), is amended by amending Subsections (a) and (c) and  
11 adding Subsections (a-1), (a-2), (a-3), and (c-1) to read as  
12 follows:

13 (a) The board may cause a disability retiree to undergo a  
14 medical examination or examinations by any reputable physician or  
15 physicians selected by the board. [~~Based on the examination, the~~  
16 ~~board shall determine whether the disability retirement annuity~~  
17 ~~shall be continued, decreased, restored to the original amount if~~  
18 ~~it had been decreased, or discontinued, except that a disability~~  
19 ~~retirement annuity may not be completely discontinued unless the~~  
20 ~~disability retiree has first been accepted for reinstatement in~~  
21 ~~that person's former position or status in the fire or police~~  
22 ~~department by the chief of the respective department.~~]

23 (a-1) A disability retiree who is awarded a catastrophic  
24 injury disability annuity under Section 5.03(a-1) of this Act shall  
25 undergo a medical examination by any reputable physician or  
26 physicians selected by the board:

27 (1) not later than 60 months after the date of the

1 award of the annuity by the board; and

2 (2) thereafter, not later than 60 months following the  
3 last required medical examination of the disability retiree under  
4 this subsection.

5 (a-2) The board may require one or more medical examinations  
6 under Subsection (a) of this section in addition to those required  
7 under Subsection (a-1) of this section.

8 (a-3) Subject to Subsection (c) of this section, based on an  
9 examination under Subsections (a), (a-1), or (a-2) of this section,  
10 the board shall determine whether the disability retirement annuity  
11 shall be continued, decreased, restored to the original amount if  
12 it had been decreased, or discontinued.

13 (c) For those retired because of disability on or after  
14 August 30, 1971, the [~~monthly~~] disability retirement annuity may  
15 not be reduced to an amount that is less than the product of:

16 (1) 2.25 percent multiplied by the number of years  
17 that the retiree served in the department and contributed a portion  
18 of salary as a member of the fund multiplied by the retiree's  
19 average total salary, if the retiree served three years or more  
20 before the date of retirement;

21 (2) 2.25 percent multiplied by the number of years  
22 that the retiree served in the department and contributed a portion  
23 of salary as a member of the fund multiplied by the retiree's  
24 average monthly salary as of the date of retirement multiplied by  
25 12, if the retiree served at least two months and less than three  
26 years before the date of retirement; or

27 (3) 2.25 percent multiplied by the number of years

1 that the retiree served in the department and contributed a portion  
2 of salary as a member of the fund multiplied by the retiree's  
3 average daily salary as of the date of retirement multiplied by 360,  
4 if the member has served less than two months before the date of  
5 retirement.

6 (c-1) In making the computation under Subsection (c) of this  
7 section, all ~~[two percent, for each year that the retiree has served~~  
8 ~~and contributed a portion of salary, of the average of the member's~~  
9 ~~total salary for the highest three years of the last five years,~~  
10 ~~computed from the date of retirement, divided by 12, or if the~~  
11 ~~member has served less than three years before the date of~~  
12 ~~retirement, 50 percent of the member's average monthly total~~  
13 ~~salary, or a theoretical monthly average if service is less than a~~  
14 ~~full month. All]~~ fractional years shall be prorated based on full  
15 months served in ~~[on]~~ the ~~[fire or police]~~ department as a  
16 contributing member of the fund before the date of retirement.

17 SECTION 9. Section 5.07(b), Chapter 824, Acts of the 73rd  
18 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
19 Civil Statutes), is amended to read as follows:

20 (b) If the retiree received income from other employment,  
21 including self-employment, during the preceding year, the board may  
22 reduce the retiree's disability retirement annuity by the amount of  
23 \$1 for each month for each \$2 of income earned by the retiree from  
24 the other employment during each month of the previous year, except  
25 that the disability retirement annuity may not be decreased below  
26 the ~~[an]~~ amount determined ~~[based on 2-1/4 percent of the retiree's~~  
27 ~~average total salary computed at the time of retirement]~~ under

1 Section 5.05(c) [~~5.04~~] of this Act [~~for each year of service in the~~  
2 ~~department~~].

3 SECTION 10. Section 5.09(a), Chapter 824, Acts of the 73rd  
4 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
5 Civil Statutes), is amended to read as follows:

6 (a) At or before its regular meeting in the month of March,  
7 the board annually shall review the Consumer's Price Index for All  
8 Urban Consumers (CPI-U), U.S. City Average or the nearest  
9 equivalent published by the United States Bureau of Labor  
10 Statistics for the preceding calendar year. If that index shows an  
11 increase during the preceding calendar year in the cost of living as  
12 compared with that index at the close of the previous year, the  
13 board shall order an increase of all service, disability, and death  
14 benefit retirement annuities by a percentage that varies by the  
15 date of the member's service or disability retirement, or, in the  
16 case of a member who died before retirement, the date on which the  
17 member died. If the member's service retirement, disability  
18 retirement, or death before retirement occurred before August 30,  
19 1971, the annuity shall be increased by a percentage equal to the  
20 percentage increase in the cost of living index. If the member's  
21 service retirement, disability retirement, or death before  
22 retirement occurred on or after August 30, 1971, but before October  
23 1, 1993, the annuity shall be increased as follows: if the  
24 percentage increase in the cost of living index is eight percent or  
25 less, the annuity shall be increased by a percentage equal to the  
26 percentage increase, and if the percentage increase in the cost of  
27 living index is more than eight percent, the annuity shall be

1 increased by eight percent plus a percentage equal to 75 percent of  
2 the percentage increase that is more than eight percent. If the  
3 member's service retirement, disability retirement, or death  
4 before retirement occurred on or after October 1, 1997 [~~1993~~], the  
5 annuity shall be increased by a percentage equal to 75 percent of  
6 the percentage increase in the cost of living index. A percentage  
7 increase in annuities shall be rounded to the nearest one-tenth  
8 percentage point for a cost of living increase.

9 SECTION 11. Section 6.02, Chapter 824, Acts of the 73rd  
10 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
11 Civil Statutes), is amended by amending Subsections (a), (c), (g),  
12 and (m) and adding Subsections (g-1), (g-2), and (o) to read as  
13 follows:

14 (a) Subject to Section 6.03 of this Act and the provisions  
15 of this section, if a member or [~~disability~~] retiree receiving a  
16 disability pension under Section 5.03(a) of this Act dies leaving a  
17 surviving spouse or at least one dependent child, the surviving  
18 spouse and the children are entitled to receive from the fund an  
19 aggregate death benefit annuity, computed and payable from the date  
20 of the member's death. The surviving spouse may elect the annuity  
21 in an amount that is equal to either:

22 (1) 50 percent of the member's average total salary;

23 or

24 (2) the same percentage of the member's average total  
25 salary that the member would have been entitled to receive as a  
26 retirement annuity if the member could have retired on the date of  
27 death.

1           (c) Subject to [~~Section 6.08 of this Act and~~] the provisions  
2 of this section, if a retiree other than a [~~disability~~] retiree  
3 receiving a disability pension under Section 5.03(a) of this Act  
4 dies leaving a surviving spouse or at least one dependent child, the  
5 surviving spouse and dependent children are entitled to receive  
6 from the fund an aggregate death benefit annuity, computed and  
7 payable from the date of the member's death, in an amount that is  
8 equal to the lesser of:

9           (1) the retirement annuity to which a member with the  
10 same average total salary as the deceased retiree and 27 years of  
11 service credit would be entitled if the member retired on the date  
12 of the deceased retiree's death; or

13           (2) the retirement annuity the retiree was receiving  
14 at the time of the retiree's death.

15           (g) A child who is born after the date of retirement of the  
16 member is not entitled to a death benefit annuity under this Act  
17 unless the retiree was married to the other parent of the child on  
18 the date of retirement. A surviving spouse of a retiree who was not  
19 married to the retiree until after the retiree's retirement is  
20 entitled to receive only the benefits, if any, provided under  
21 Subsection (g-1) [~~(m)~~] of this section or [~~and~~] Section 6.08 of this  
22 Act.

23           (g-1) A surviving spouse of a retiree who was not married to  
24 the retiree until after the date of the retiree's retirement is  
25 entitled to receive the entire death benefit of a surviving spouse  
26 in this section if the surviving spouse was married to the retiree  
27 for a period of at least the five consecutive years preceding the

1 date of the retiree's death. A surviving spouse of a retiree who  
2 was not married to the retiree until after the retiree's retirement  
3 and was not married to the retiree for a period of the five  
4 consecutive years preceding the date of the retiree's death is  
5 entitled to receive only the benefits, if any, provided under  
6 Section 6.08 of this Act. The benefit provided by this subsection  
7 applies only with respect to a retiree death that occurs on or after  
8 October 1, 2007.

9 (g-2) The surviving spouse of a retiree who made an election  
10 under Subsection (m) of this section before October 1, 2007, and who  
11 does not cancel that election in accordance with Subsection (m) of  
12 this section is not entitled to receive the death benefit annuity  
13 provided for under Subsection (g-1) of this section.

14 (m) Subject to Subsections [~~Subsection~~] (n) and (o) of this  
15 section, a service retiree who marries after the date of retirement  
16 may elect to receive a reduced annuity during the retiree's  
17 lifetime and provide for a death benefit annuity to the retiree's  
18 surviving spouse. The amount of the reduced annuity and spousal  
19 death benefit shall be determined by the fund's actuary and shall be  
20 actuarially equivalent to the annuity the retiree was receiving  
21 immediately before the election under this subsection. An election  
22 made under this subsection may be canceled by the retiree before the  
23 retiree's death [~~on the divorce of the retiree or the death of the~~  
24 ~~retiree's spouse~~]. After the election is canceled, the retiree  
25 shall be entitled to receive the same annuity to which the retiree  
26 would have been entitled if the election had not been made. A  
27 retiree who cancels an election under this subsection is not



1 entitled to any additional benefits for the period of time before  
2 the cancellation. The board shall adopt policies and procedures  
3 governing elections and cancellation of elections under this  
4 subsection. An election or cancellation of an election made under  
5 this subsection must be made in accordance with the board's  
6 policies and procedures.

7 (o) A retiree may not make an election under Subsection (m)  
8 of this section after September 30, 2007. A cancellation of an  
9 election by a retiree under Subsection (m) of this section must be  
10 made on or before December 31, 2007.

11 SECTION 12. Section 6.08, Chapter 824, Acts of the 73rd  
12 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
13 Civil Statutes), is amended by amending Subsections (a) and (b) to  
14 read as follows:

15 (a) Except as provided by Subsection (b) of this section, a  
16 surviving spouse of a retiree whose status as such resulted from any  
17 marriage after the date of the retirement of the retiree and who has  
18 been married to the retiree for a period of at least the 2-1/2 but  
19 less than the five consecutive years preceding the date of the  
20 retiree's death, [member] is entitled to a lump-sum death benefit  
21 because of the retiree's [member's] death in the amount of \$2,500 [+]

22 ~~[(1) \$10,000 if the marriage occurred 10 years or more~~  
23 ~~before the member's death,~~

24 ~~[(2) \$7,500 if the marriage occurred 7-1/2 years~~  
25 ~~before but less than 10 years before the member's death,~~

26 ~~[(3) \$5,000 if the marriage occurred five years or~~  
27 ~~more but less than 7-1/2 years before the member's death, and~~

1           ~~[(4) \$2,500 if the marriage occurred 2-1/2 years or~~  
2 ~~more but less than five years before the member's death].~~

3           (b) A surviving spouse is not entitled to a lump-sum death  
4 benefit under this section if a child is entitled to receive death  
5 benefits under this Act as a result of the retiree's death.

6           SECTION 13. Section 6.11, Chapter 824, Acts of the 73rd  
7 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
8 Civil Statutes), is amended to read as follows:

9           Sec. 6.11. DEATH BENEFIT FOR ACTIVE MEMBER'S ESTATE. If an  
10 active member dies and does not leave a beneficiary, the estate of  
11 the deceased member is entitled to a death benefit payment from the  
12 fund in an amount equal to the greater of:

13           (1) 10 [~~five~~] times the amount of an annuity computed  
14 in accordance with Section 5.01(f-1) [~~5.01(f)~~] of this Act using  
15 the deceased member's service credit and average total salary as of  
16 the date of death; or

17           (2) the refund of the member's contributions that were  
18 picked up by the municipality.

19           SECTION 14. Section 6.115, Chapter 824, Acts of the 73rd  
20 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
21 Civil Statutes), is amended to read as follows:

22           Sec. 6.115. DEATH BENEFIT FOR RETIREE'S ESTATE. If a  
23 retiree dies and does not leave a beneficiary, the estate of the  
24 retiree is entitled to a death benefit payment from the fund in an  
25 amount equal to 10 [~~five~~] times the amount of the annuity awarded by  
26 the board effective on the retiree's date of retirement, less any  
27 retirement or disability annuity and any lump sum under Section

1 5.015 of this Act paid to the retiree.

2 SECTION 15. Sections 6.14(e), (f), (h), and (j), Chapter  
3 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article  
4 6243o, Vernon's Texas Civil Statutes), are amended to read as  
5 follows:

6 (e) The annuity used to compute the lump-sum payment is  
7 determined in the manner provided by Section 5.01(f-1) [~~5.01(f)~~] of  
8 this Act for retired members, using:

9 (1) the deceased member's average total salary for all  
10 months, excluding the number of months immediately preceding the  
11 member's date of death that equal the number of months elected by  
12 the surviving spouse under Subsection (f) of this section; and

13 (2) the amount of service credit as determined by  
14 Subsection (g) or (h) of this section.

15 (f) The surviving spouse must elect the number of months  
16 used in computing the lump-sum payment. The number of months may  
17 not exceed the lesser of:

18 (1) the number of months of service credit in excess of  
19 20 years that the deceased member has on the date of death; or

20 (2) 48 [~~36~~] months.

21 (h) In determining the annuity under Subsection (e) of this  
22 section for a surviving spouse whose death benefit annuity is  
23 limited by Section 6.02(b) of this Act, the deceased member's  
24 service credit is the lesser of:

25 (1) the deceased member's service credit computed as  
26 provided by Section 5.01(g) of this Act, less the number of months  
27 elected by the surviving spouse under Subsection (f) of this

1 section and less any service credit for unused sick leave to which  
2 the member would have been entitled; or

3 (2) 27 years.

4 (j) The reduced annuity is determined in the manner provided  
5 by Section 5.01(f-1) [~~5.01(f)~~] of this Act for retired members,  
6 using:

7 (1) the deceased member's average total salary for all  
8 months, excluding the number of months immediately preceding the  
9 member's date of death that equal the number of months elected by  
10 the surviving spouse under Subsection (f) of this section; and

11 (2) the amount of service credit as determined by  
12 Subsection (k) or (l) of this section.

13 SECTION 16. Sections 4.07(a), 5.04(c), and 6.08(c), Chapter  
14 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article  
15 6243o, Vernon's Texas Civil Statutes), are repealed.

16 SECTION 17. This Act takes effect October 1, 2007.