

1-1 By: McClendon (Senate Sponsor - Wentworth) H.B. No. 2752
1-2 (In the Senate - Received from the House May 9, 2007;
1-3 May 10, 2007, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 18, 2007, reported favorably by
1-5 the following vote: Yeas 4, Nays 0; May 18, 2007, sent to printer.)

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

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

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

1-11 SECTION 1. Section 1.02, Chapter 824, Acts of the 73rd
1-12 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
1-13 Civil Statutes), is amended by amending Subdivision (15) and adding
1-14 Subdivisions (4-a), (8-a), and (12-a) to read as follows:

1-15 (4-a) "Catastrophic injury" means irreparable
1-16 physical bodily injury sustained by a member as a direct and
1-17 immediate result of the member's engaging in an activity that:

1-18 (A) constitutes the performance of the member's
1-19 duties as a firefighter or police officer;

1-20 (B) involves an extraordinary degree of risk of
1-21 bodily injury or death; and

1-22 (C) does not result in death.

1-23 (8-a) "Disability" means a regular disability under
1-24 Section 5.03(a) of this Act or a catastrophic injury disability
1-25 under Section 5.03(a-1) of this Act.

1-26 (12-a) "Qualified mayoral designee" means an
1-27 individual designated by the mayor of a municipality to which this
1-28 Act applies who is a member or former member of the city council of,
1-29 or an employee of, a municipality to which this Act applies.

1-30 (15) "Retirement annuity" means ~~monthly~~ pension
1-31 benefits payable to a retiree on an annual basis in accordance with
1-32 this Act.

1-33 SECTION 2. Section 2.01(a), Chapter 824, Acts of the 73rd
1-34 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
1-35 Civil Statutes), is amended to read as follows:

1-36 (a) The fund is governed by a board of trustees consisting
1-37 of the following nine members:

1-38 (1) the mayor of a municipality to which this Act
1-39 applies or a qualified mayoral designee;

1-40 (2) two members of the governing body of a
1-41 municipality to which this Act applies, appointed by that governing
1-42 body;

1-43 (3) two active members who are fire fighters below the
1-44 rank of fire chief, elected by secret ballot by a majority of the
1-45 votes cast by the members of the fire department;

1-46 (4) two active members who are police officers below
1-47 the rank of police chief, elected by secret ballot by a majority of
1-48 the votes cast by the members of the police department;

1-49 (5) a retiree representative of the fire department,
1-50 elected by secret ballot by a majority of the votes cast by the
1-51 retirees of the fire department and the surviving spouses who are
1-52 receiving benefits with respect to deceased members or retirees of
1-53 the fire department; and

1-54 (6) a retiree representative of the police department,
1-55 elected by secret ballot by a majority of the votes cast by the
1-56 retirees of the police department and the surviving spouses who are
1-57 receiving benefits with respect to deceased members or retirees of
1-58 the police department.

1-59 SECTION 3. Section 2.02(a), Chapter 824, Acts of the 73rd
1-60 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
1-61 Civil Statutes), is amended to read as follows:

1-62 (a) The mayor of a municipality to which this Act applies,
1-63 or a qualified mayoral designee, serves on the board for the term of
1-64 the mayor's office except that, if the mayor appoints a mayoral

2-1 designee, the mayor may replace or remove that mayoral designee at
 2-2 the mayor's discretion. An individual designated by the mayor to
 2-3 serve on the board under this subsection may only serve on the board
 2-4 while the individual is a qualified mayoral designee.

2-5 SECTION 4. Section 4.07(b), Chapter 824, Acts of the 73rd
 2-6 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
 2-7 Civil Statutes), is amended to read as follows:

2-8 (b) A member of the fund who terminates employment before
 2-9 the member's right to benefits under the fund has vested [~~but who~~
 2-10 ~~has contributed to the fund for at least five years]~~ is entitled to
 2-11 a refund of the member's contributions that were picked up by the
 2-12 municipality. That refund shall be paid without interest. A refund
 2-13 under this section is not available to a member who terminates
 2-14 employment to receive a disability pension or to a survivor
 2-15 beneficiary under this Act. Except as provided by Section 4.08 of
 2-16 this Act, a person's acceptance of a refund under this subsection
 2-17 precludes the person from any other right or benefit under this Act.

2-18 SECTION 5. Section 5.01, Chapter 824, Acts of the 73rd
 2-19 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
 2-20 Civil Statutes), is amended by amending Subsection (f) and adding
 2-21 Subsections (f-1), (i), and (j) to read as follows:

2-22 (f) The board shall compute the retirement annuity of a
 2-23 member who retires after September 30, 2001, but before October 1,
 2-24 2007, at the rate of 2-1/4 percent of the member's average total
 2-25 salary for each of the first 20 years of service, plus 4-1/2 percent
 2-26 of the member's average total salary for each of the next seven
 2-27 years of service, plus three percent of the member's average total
 2-28 salary for each of the next three years of service, plus one-half
 2-29 percent of the member's average total salary for each of the next
 2-30 four years of service, with fractional years of service prorated
 2-31 based on full months served as a contributing member. In making the
 2-32 computation for a year, the year is considered to begin on the first
 2-33 day a contribution is made. A retirement annuity under this
 2-34 subsection may not exceed, as of the date of retirement, 87-1/2
 2-35 percent of the member's average total salary.

2-36 (f-1) The board shall compute the retirement annuity of a
 2-37 member who retires after September 30, 2007, at the rate of 2-1/4
 2-38 percent of the member's average total salary for each of the first
 2-39 20 years of service, plus five percent of the member's average total
 2-40 salary for each of the next seven years of service, plus two percent
 2-41 of the member's average total salary for each of the next three
 2-42 years of service, plus one-half percent of the member's average
 2-43 total salary for each of the next three years of service, with
 2-44 fractional years of service prorated based on full months served as
 2-45 a contributing member. In making the computation for a year, the
 2-46 year is considered to begin on the first day a contribution is made.
 2-47 A retirement annuity under this subsection may not exceed, as of the
 2-48 date of retirement, 87-1/2 percent of the member's average total
 2-49 salary.

2-50 (i) Beginning with the first monthly benefit payable by the
 2-51 fund after October 1, 2007:

2-52 (1) the monthly benefit payable by the fund to a
 2-53 retiree or a beneficiary of a deceased retiree or active member as a
 2-54 result of a service retirement, disability retirement, or death of
 2-55 an active member that occurred before October 1, 1989, increases by
 2-56 \$200; and

2-57 (2) a monthly benefit that is divided and payable to
 2-58 more than one beneficiary in accordance with Section 6.02 of this
 2-59 Act increases by a total amount of \$200.

2-60 (j) Beginning with the first monthly benefit payable by the
 2-61 fund after October 1, 2007:

2-62 (1) a monthly benefit payable by the fund to a retiree
 2-63 or a beneficiary of a deceased retiree or active member that is less
 2-64 than \$1,850 per month, after taking into account the increase
 2-65 provided for in Subsection (i) of this section, increases to \$1,850
 2-66 per month; and

2-67 (2) a monthly benefit that is divided and payable to
 2-68 more than one beneficiary in accordance with Section 6.02 of this
 2-69 Act increases to a total amount of \$1,850.

3-1 SECTION 6. Section 5.015(b), Chapter 824, Acts of the 73rd
 3-2 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
 3-3 Civil Statutes), is amended to read as follows:

3-4 (b) The Back DROP election:

3-5 (1) results in a lump-sum payment for a number of full
 3-6 months of service elected by the member that does not exceed the
 3-7 lesser of the number of months of service credit the member has in
 3-8 excess of 20 years or 48 [36] months;

3-9 (2) is available only to a member who takes a service
 3-10 retirement; and

3-11 (3) must be made at the time of application for
 3-12 retirement.

3-13 SECTION 7. Section 5.03, Chapter 824, Acts of the 73rd
 3-14 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
 3-15 Civil Statutes), is amended by amending Subsections (a) and (c) and
 3-16 adding Subsections (a-1), (a-2), and (g) to read as follows:

3-17 (a) An active member of the fund who is not eligible to
 3-18 receive a catastrophic injury disability annuity under Subsection
 3-19 (a-1) of this section is eligible to retire and receive a regular
 3-20 disability retirement annuity if the member:

3-21 (1) makes a written application for regular disability
 3-22 retirement with the board;

3-23 (2) is permanently disabled through injury or disease
 3-24 so as to be unable to perform the duties of any available position
 3-25 in the department and has been off active duty for a continuous
 3-26 period of not less than 30 days before the date of the application
 3-27 for disability retirement;

3-28 (3) has had all member contributions required by this
 3-29 Act made on the member's behalf;

3-30 (4) is not on indefinite suspension as described in
 3-31 Subsection (d) of this section; and

3-32 (5) has authorized the release to the board of all
 3-33 medical records dated on or after the date of initial application
 3-34 for employment with the department.

3-35 (a-1) An active member of the fund is eligible to retire and
 3-36 receive a catastrophic injury disability retirement annuity if the
 3-37 member:

3-38 (1) makes a written application for catastrophic
 3-39 injury disability retirement with the board;

3-40 (2) is permanently so disabled as a result of a
 3-41 catastrophic injury as to:

3-42 (A) be unable to secure any type of third-party
 3-43 employment, or engage in any self-employment, other than sporadic
 3-44 third-party or self-employment; and

3-45 (B) have, as a result of the lack of third-party
 3-46 employment or self-employment, an annual income less than the
 3-47 poverty level for one person in the 48 contiguous states of the
 3-48 United States as provided under the poverty guidelines published
 3-49 from time to time by the United States Department of Health and
 3-50 Human Services, or similar guidelines selected by the board;

3-51 (3) has had all member contributions required by this
 3-52 Act made on the member's behalf;

3-53 (4) is not on indefinite suspension as described in
 3-54 Subsection (e) of this section; and

3-55 (5) has authorized the release to the board of all
 3-56 medical records dated on or after the date of initial application
 3-57 for employment with the department.

3-58 (a-2) The following diseases, disorders, or injuries are
 3-59 not catastrophic injuries:

3-60 (1) heart disease or lung disease contracted as a
 3-61 result of repeated exposure to occupational environmental
 3-62 conditions over a period of months or years;

3-63 (2) an anxiety disorder, including post-traumatic
 3-64 stress disorder; or

3-65 (3) a soft-tissue back, neck, or spine injury,
 3-66 including a sprain, strain, subluxation, or repetitive stress
 3-67 injury, that does not result in paralysis, as determined by a
 3-68 physician authorized or appointed by the board.

3-69 (c) Except as provided by Subsection (d) of this section, a

4-1 member of the fund who is on suspension and who becomes disabled as
 4-2 a result of [receives a total and permanent disability resulting
 4-3 from] an injury sustained or disease contracted [incurred] while
 4-4 the member is on suspension is eligible for a disability retirement
 4-5 annuity under Subsection (a) or (a-1) of this section, as
 4-6 applicable, if the suspended member makes up each deducted
 4-7 contribution lost by reason of the suspension not later than the
 4-8 30th day after the later of the termination date of the suspension
 4-9 or the exhaustion of any appeal with respect to the suspension. A
 4-10 municipality to which this Act applies shall double-match all
 4-11 contributions made by a member under this subsection.

4-12 (g) A disability retiree who becomes disabled before
 4-13 October 1, 2007, and who is otherwise qualified to receive a
 4-14 catastrophic injury disability retirement annuity under Subsection
 4-15 (a-1) of this section is eligible to receive an annuity under that
 4-16 subsection, subject to Section 5.04(a-2) of this Act.

4-17 SECTION 8. Section 5.04, Chapter 824, Acts of the 73rd
 4-18 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
 4-19 Civil Statutes), is amended by amending Subsections (a) and (b) and
 4-20 adding Subsections (a-1) and (a-2) to read as follows:

4-21 (a) A member who is eligible to retire and receive a
 4-22 ~~[monthly]~~ disability retirement annuity under Section 5.03(a) of
 4-23 this Act is entitled to receive an annuity from the fund equal to:

4-24 (1) 50 percent of ~~[the average of]~~ the member's average
 4-25 total salary, if the member has served three years or more before
 4-26 the date of retirement ~~[for the highest three years of the last five~~
 4-27 ~~years, computed from the date of retirement, divided by 12]; [or]~~

4-28 (2) ~~[if the member has served less than three years~~
 4-29 ~~before the date of retirement,]~~ 50 percent of the member's average
 4-30 monthly ~~[total]~~ salary as of the date of retirement multiplied by
 4-31 12, if the member has served at least two months and less than three
 4-32 years before the date of retirement; or

4-33 (3) 50 percent of the member's average daily salary as
 4-34 of the date of retirement multiplied by 360, if the member has
 4-35 served less than two months before the date of retirement.

4-36 (a-1) Subject to Subsection (a-2) of this section a member
 4-37 who is eligible to retire and receive a catastrophic injury
 4-38 disability retirement annuity under Section 5.03(a-1) of this Act
 4-39 is entitled to receive an annuity from the fund equal to:

4-40 (1) 87.5 percent of the member's average total salary,
 4-41 if the member has served three years or more before the date of
 4-42 retirement;

4-43 (2) 87.5 percent of the member's average monthly
 4-44 salary as of the date of retirement multiplied by 12, if the member
 4-45 has served at least two months and less than three years before the
 4-46 date of retirement; or

4-47 (3) 87.5 percent of the member's average daily salary
 4-48 as of the date of retirement multiplied by 360, if the member has
 4-49 served less than two months before the date of retirement.

4-50 (a-2) An annuity awarded by the board under Subsection (a-1)
 4-51 of this section to a member who was previously awarded an annuity
 4-52 under Subsection (a) of this section shall be increased to equal the
 4-53 amount the annuity awarded under Subsection (a) of this section
 4-54 would have been if the annuity had been awarded under Subsection
 4-55 (a-1) of this section, taking into account the cost of living
 4-56 adjustment increases provided for in Section 5.09 of this Act. This
 4-57 subsection does not entitle the member to any additional payment
 4-58 for the period before the effective date of the award under
 4-59 Subsection (a-1) of this section ~~[, or a theoretical monthly~~
 4-60 ~~average if service is less than a full month].~~

4-61 (b) In making computations under this section, all [All]
 4-62 fractional years must be [under this section are] prorated based on
 4-63 full months served in [on] the [fire or police] department as a
 4-64 contributing member of the fund.

4-65 SECTION 9. Section 5.05, Chapter 824, Acts of the 73rd
 4-66 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
 4-67 Civil Statutes), is amended by amending Subsections (a) and (c) and
 4-68 adding Subsections (a-1), (a-2), (a-3), and (c-1) to read as
 4-69 follows:

5-1 (a) The board may cause a disability retiree to undergo a
 5-2 medical examination or examinations by any reputable physician or
 5-3 physicians selected by the board[. ~~Based on the examination, the~~
 5-4 ~~board shall determine whether the disability retirement annuity~~
 5-5 ~~shall be continued, decreased, restored to the original amount if~~
 5-6 ~~it had been decreased, or discontinued, except that a disability~~
 5-7 ~~retirement annuity may not be completely discontinued unless the~~
 5-8 ~~disability retiree has first been accepted for reinstatement in~~
 5-9 ~~that person's former position or status in the fire or police~~
 5-10 ~~department by the chief of the respective department].~~

5-11 (a-1) A disability retiree who is awarded a catastrophic
 5-12 injury disability annuity under Section 5.03(a-1) of this Act shall
 5-13 undergo a medical examination by any reputable physician or
 5-14 physicians selected by the board:

5-15 (1) not later than 60 months after the date of the
 5-16 award of the annuity by the board; and

5-17 (2) thereafter, not later than 60 months following the
 5-18 last required medical examination of the disability retiree under
 5-19 this subsection.

5-20 (a-2) The board may require one or more medical examinations
 5-21 under Subsection (a) of this section in addition to those required
 5-22 under Subsection (a-1) of this section.

5-23 (a-3) Subject to Subsection (c) of this section, based on an
 5-24 examination under Subsections (a), (a-1), or (a-2) of this section,
 5-25 the board shall determine whether the disability retirement annuity
 5-26 shall be continued, decreased, restored to the original amount if
 5-27 it had been decreased, or discontinued.

5-28 (c) For those retired because of disability on or after
 5-29 August 30, 1971, the ~~monthly~~ disability retirement annuity may
 5-30 not be reduced to an amount that is less than the product of:

5-31 (1) 2.25 percent multiplied by the number of years
 5-32 that the retiree served in the department and contributed a portion
 5-33 of salary as a member of the fund multiplied by the retiree's
 5-34 average total salary, if the retiree served three years or more
 5-35 before the date of retirement;

5-36 (2) 2.25 percent multiplied by the number of years
 5-37 that the retiree served in the department and contributed a portion
 5-38 of salary as a member of the fund multiplied by the retiree's
 5-39 average monthly salary as of the date of retirement multiplied by
 5-40 12, if the retiree served at least two months and less than three
 5-41 years before the date of retirement; or

5-42 (3) 2.25 percent multiplied by the number of years
 5-43 that the retiree served in the department and contributed a portion
 5-44 of salary as a member of the fund multiplied by the retiree's
 5-45 average daily salary as of the date of retirement multiplied by 360,
 5-46 if the member has served less than two months before the date of
 5-47 retirement.

5-48 (c-1) In making the computation under Subsection (c) of this
 5-49 section, all [two percent, for each year that the retiree has served
 5-50 and contributed a portion of salary, of the average of the member's
 5-51 total salary for the highest three years of the last five years,
 5-52 computed from the date of retirement, divided by 12, or if the
 5-53 member has served less than three years before the date of
 5-54 retirement, 50 percent of the member's average monthly total
 5-55 salary, or a theoretical monthly average if service is less than a
 5-56 full month. All] fractional years shall be prorated based on full
 5-57 months served in [on] the [fire or police] department as a
 5-58 contributing member of the fund before the date of retirement.

5-59 SECTION 10. Section 5.07(b), Chapter 824, Acts of the 73rd
 5-60 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
 5-61 Civil Statutes), is amended to read as follows:

5-62 (b) If the retiree received income from other employment,
 5-63 including self-employment, during the preceding year, the board may
 5-64 reduce the retiree's disability retirement annuity by the amount of
 5-65 \$1 for each month for each \$2 of income earned by the retiree from
 5-66 the other employment during each month of the previous year, except
 5-67 that the disability retirement annuity may not be decreased below
 5-68 the [an] amount determined [based on 2-1/4 percent of the retiree's
 5-69 average total salary computed at the time of retirement] under

6-1 Section 5.05(c) [~~5.04~~] of this Act [~~for each year of service in the~~
6-2 ~~department~~].

6-3 SECTION 11. Section 5.09(a), Chapter 824, Acts of the 73rd
6-4 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
6-5 Civil Statutes), is amended to read as follows:

6-6 (a) At or before its regular meeting in the month of March,
6-7 the board annually shall review the Consumer's Price Index for All
6-8 Urban Consumers (CPI-U), U.S. City Average or the nearest
6-9 equivalent published by the United States Bureau of Labor
6-10 Statistics for the preceding calendar year. If that index shows an
6-11 increase during the preceding calendar year in the cost of living as
6-12 compared with that index at the close of the previous year, the
6-13 board shall order an increase of all service, disability, and death
6-14 benefit retirement annuities by a percentage that varies by the
6-15 date of the member's service or disability retirement, or, in the
6-16 case of a member who died before retirement, the date on which the
6-17 member died. If the member's service retirement, disability
6-18 retirement, or death before retirement occurred before August 30,
6-19 1971, the annuity shall be increased by a percentage equal to the
6-20 percentage increase in the cost of living index. If the member's
6-21 service retirement, disability retirement, or death before
6-22 retirement occurred on or after August 30, 1971, but before October
6-23 1, 1997 [~~1993~~], the annuity shall be increased as follows: if the
6-24 percentage increase in the cost of living index is eight percent or
6-25 less, the annuity shall be increased by a percentage equal to the
6-26 percentage increase, and if the percentage increase in the cost of
6-27 living index is more than eight percent, the annuity shall be
6-28 increased by eight percent plus a percentage equal to 75 percent of
6-29 the percentage increase that is more than eight percent. If the
6-30 member's service retirement, disability retirement, or death
6-31 before retirement occurred on or after October 1, 1997 [~~1993~~], the
6-32 annuity shall be increased by a percentage equal to 75 percent of
6-33 the percentage increase in the cost of living index. A percentage
6-34 increase in annuities shall be rounded to the nearest one-tenth
6-35 percentage point for a cost of living increase.

6-36 SECTION 12. Section 6.02, Chapter 824, Acts of the 73rd
6-37 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
6-38 Civil Statutes), is amended by amending Subsections (a), (c), (g),
6-39 and (m) and adding Subsections (g-1), (g-2), and (o) to read as
6-40 follows:

6-41 (a) Subject to Section 6.03 of this Act and the provisions
6-42 of this section, if a member or [~~disability~~] retiree receiving a
6-43 disability pension under Section 5.03(a) of this Act dies leaving a
6-44 surviving spouse or at least one dependent child, the surviving
6-45 spouse and the children are entitled to receive from the fund an
6-46 aggregate death benefit annuity, computed and payable from the date
6-47 of the member's death. The surviving spouse may elect the annuity
6-48 in an amount that is equal to either:

6-49 (1) 50 percent of the member's average total salary; or
6-50 (2) the same percentage of the member's average total
6-51 salary that the member would have been entitled to receive as a
6-52 retirement annuity if the member could have retired on the date of
6-53 death.

6-54 (c) Subject to [~~Section 6.08 of this Act and~~] the provisions
6-55 of this section, if a retiree other than a [~~disability~~] retiree
6-56 receiving a disability pension under Section 5.03(a) of this Act
6-57 dies leaving a surviving spouse or at least one dependent child, the
6-58 surviving spouse and dependent children are entitled to receive
6-59 from the fund an aggregate death benefit annuity, computed and
6-60 payable from the date of the member's death, in an amount that is
6-61 equal to the lesser of:

6-62 (1) the retirement annuity to which a member with the
6-63 same average total salary as the deceased retiree and 27 years of
6-64 service credit would be entitled if the member retired on the date
6-65 of the deceased retiree's death; or

6-66 (2) the retirement annuity the retiree was receiving
6-67 at the time of the retiree's death.

6-68 (g) A child who is born after the date of retirement of the
6-69 member is not entitled to a death benefit annuity under this Act

7-1 unless the retiree was married to the other parent of the child on
 7-2 the date of retirement. A surviving spouse of a retiree who was not
 7-3 married to the retiree until after the retiree's retirement is
 7-4 entitled to receive only the benefits, if any, provided under
 7-5 Subsection (g-1) [~~(m)~~] of this section or [~~and~~] Section 6.08 of this
 7-6 Act.

7-7 (g-1) A surviving spouse of a retiree who was not married to
 7-8 the retiree until after the date of the retiree's retirement is
 7-9 entitled to receive the entire death benefit of a surviving spouse
 7-10 in this section if the surviving spouse was married to the retiree
 7-11 for a period of at least the five consecutive years preceding the
 7-12 date of the retiree's death. A surviving spouse of a retiree who
 7-13 was not married to the retiree until after the retiree's retirement
 7-14 and was not married to the retiree for a period of the five
 7-15 consecutive years preceding the date of the retiree's death is
 7-16 entitled to receive only the benefits, if any, provided under
 7-17 Section 6.08 of this Act. The benefit provided by this subsection
 7-18 applies only with respect to a retiree death that occurs on or after
 7-19 October 1, 2007.

7-20 (g-2) The surviving spouse of a retiree who made an election
 7-21 under Subsection (m) of this section before October 1, 2007, and who
 7-22 does not cancel that election in accordance with Subsection (m) of
 7-23 this section is not entitled to receive the death benefit annuity
 7-24 provided for under Subsection (g-1) of this section.

7-25 (m) Subject to Subsections [~~Subsection~~] (n) and (o) of this
 7-26 section, a service retiree who marries after the date of retirement
 7-27 may elect to receive a reduced annuity during the retiree's
 7-28 lifetime and provide for a death benefit annuity to the retiree's
 7-29 surviving spouse. The amount of the reduced annuity and spousal
 7-30 death benefit shall be determined by the fund's actuary and shall be
 7-31 actuarially equivalent to the annuity the retiree was receiving
 7-32 immediately before the election under this subsection. An election
 7-33 made under this subsection may be canceled by the retiree before the
 7-34 retiree's death [~~on the divorce of the retiree or the death of the~~
 7-35 ~~retiree's spouse~~]. After the election is canceled, the retiree
 7-36 shall be entitled to receive the same annuity to which the retiree
 7-37 would have been entitled if the election had not been made. A
 7-38 retiree who cancels an election under this subsection is not
 7-39 entitled to any additional benefits for the period of time before
 7-40 the cancellation. The board shall adopt policies and procedures
 7-41 governing elections and cancellation of elections under this
 7-42 subsection. An election or cancellation of an election made under
 7-43 this subsection must be made in accordance with the board's
 7-44 policies and procedures.

7-45 (o) A retiree may not make an election under Subsection (m)
 7-46 of this section after September 30, 2007. A cancellation of an
 7-47 election by a retiree under Subsection (m) of this section must be
 7-48 made on or before December 31, 2007.

7-49 SECTION 13. Sections 6.08(a) and (b), Chapter 824, Acts of
 7-50 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
 7-51 Vernon's Texas Civil Statutes), are amended to read as follows:

7-52 (a) Except as provided by Subsection (b) of this section, a
 7-53 surviving spouse of a retiree whose status as such resulted from any
 7-54 marriage after the date of the retirement of the retiree and who has
 7-55 been married to the retiree for a period of at least the 2-1/2 but
 7-56 less than the five consecutive years preceding the date of the
 7-57 retiree's death, [~~member~~] is entitled to a lump-sum death benefit
 7-58 because of the retiree's [~~member's~~] death in the amount of \$2,500 [~~+~~

7-59 [~~(1) \$10,000 if the marriage occurred 10 years or more~~
 7-60 ~~before the member's death,~~

7-61 [~~(2) \$7,500 if the marriage occurred 7-1/2 years~~
 7-62 ~~before but less than 10 years before the member's death,~~

7-63 [~~(3) \$5,000 if the marriage occurred five years or~~
 7-64 ~~more but less than 7-1/2 years before the member's death, and~~

7-65 [~~(4) \$2,500 if the marriage occurred 2-1/2 years or~~
 7-66 ~~more but less than five years before the member's death].~~

7-67 (b) A surviving spouse is not entitled to a lump-sum death
 7-68 benefit under this section if a child is entitled to receive death
 7-69 benefits under this Act as a result of the retiree's death.

8-1 SECTION 14. Section 6.11, Chapter 824, Acts of the 73rd
8-2 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
8-3 Civil Statutes), is amended to read as follows:

8-4 Sec. 6.11. DEATH BENEFIT FOR ACTIVE MEMBER'S ESTATE. If an
8-5 active member dies and does not leave a beneficiary, the estate of
8-6 the deceased member is entitled to a death benefit payment from the
8-7 fund in an amount equal to the greater of:

8-8 (1) 10 [~~five~~] times the amount of an annuity computed
8-9 in accordance with Section 5.01(f-1) [~~5.01(f)~~] of this Act using
8-10 the deceased member's service credit and average total salary as of
8-11 the date of death; or

8-12 (2) the refund of the member's contributions that were
8-13 picked up by the municipality.

8-14 SECTION 15. Section 6.115, Chapter 824, Acts of the 73rd
8-15 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
8-16 Civil Statutes), is amended to read as follows:

8-17 Sec. 6.115. DEATH BENEFIT FOR RETIREE'S ESTATE. If a
8-18 retiree dies and does not leave a beneficiary, the estate of the
8-19 retiree is entitled to a death benefit payment from the fund in an
8-20 amount equal to 10 [~~five~~] times the amount of the annuity awarded by
8-21 the board effective on the retiree's date of retirement, less any
8-22 retirement or disability annuity and any lump sum under Section
8-23 5.015 of this Act paid to the retiree.

8-24 SECTION 16. Sections 6.14(e), (f), (h), and (j), Chapter
8-25 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article
8-26 6243o, Vernon's Texas Civil Statutes), are amended to read as
8-27 follows:

8-28 (e) The annuity used to compute the lump-sum payment is
8-29 determined in the manner provided by Section 5.01(f-1) [~~5.01(f)~~] of
8-30 this Act for retired members, using:

8-31 (1) the deceased member's average total salary for all
8-32 months, excluding the number of months immediately preceding the
8-33 member's date of death that equal the number of months elected by
8-34 the surviving spouse under Subsection (f) of this section; and

8-35 (2) the amount of service credit as determined by
8-36 Subsection (g) or (h) of this section.

8-37 (f) The surviving spouse must elect the number of months
8-38 used in computing the lump-sum payment. The number of months may
8-39 not exceed the lesser of:

8-40 (1) the number of months of service credit in excess of
8-41 20 years that the deceased member has on the date of death; or

8-42 (2) 48 [~~36~~] months.

8-43 (h) In determining the annuity under Subsection (e) of this
8-44 section for a surviving spouse whose death benefit annuity is
8-45 limited by Section 6.02(b) of this Act, the deceased member's
8-46 service credit is the lesser of:

8-47 (1) the deceased member's service credit computed as
8-48 provided by Section 5.01(g) of this Act, less the number of months
8-49 elected by the surviving spouse under Subsection (f) of this
8-50 section and less any service credit for unused sick leave to which
8-51 the member would have been entitled; or

8-52 (2) 27 years.

8-53 (j) The reduced annuity is determined in the manner provided
8-54 by Section 5.01(f-1) [~~5.01(f)~~] of this Act for retired members,
8-55 using:

8-56 (1) the deceased member's average total salary for all
8-57 months, excluding the number of months immediately preceding the
8-58 member's date of death that equal the number of months elected by
8-59 the surviving spouse under Subsection (f) of this section; and

8-60 (2) the amount of service credit as determined by
8-61 Subsection (k) or (l) of this section.

8-62 SECTION 17. Sections 4.07(a), 5.04(c), and 6.08(c), Chapter
8-63 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article
8-64 6243o, Vernon's Texas Civil Statutes), are repealed.

8-65 SECTION 18. This Act takes effect October 1, 2007.

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