

By: Wentworth

S.B. No. 1777

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 fire fighter 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. Subsection (a), Section 2.01, Chapter 824, Acts
4 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,
5 Vernon's Texas 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. Subsection (a), Section 2.02, Chapter 824, Acts
3 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,
4 Vernon's Texas 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. Subsection (b), Section 4.07, Chapter 824, Acts
13 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,
14 Vernon's Texas Civil Statutes), is amended to read as follows:

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

25 SECTION 5. Section 5.01, Chapter 824, Acts of the 73rd
26 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
27 Civil Statutes), is amended by amending Subsection (f) and adding

1 Subsections (f-1), (i), and (j) to read as follows:

2 (f) The board shall compute the retirement annuity of a
3 member who retires after September 30, 2001, but before October 1,
4 2007, at the rate of 2-1/4 percent of the member's average total
5 salary for each of the first 20 years of service, plus 4-1/2 percent
6 of the member's average total salary for each of the next seven
7 years of service, plus three percent of the member's average total
8 salary for each of the next three years of service, plus one-half
9 percent of the member's average total salary for each of the next
10 four years of service, with fractional years of service prorated
11 based on full months served as a contributing member. In making the
12 computation for a year, the year is considered to begin on the first
13 day a contribution is made. A retirement annuity under this
14 subsection may not exceed, as of the date of retirement, 87-1/2
15 percent of the member's average total salary.

16 (f-1) The board shall compute the retirement annuity of a
17 member who retires after September 30, 2007, at the rate of 2-1/4
18 percent of the member's average total salary for each of the first
19 20 years of service, plus five percent of the member's average total
20 salary for each of the next seven years of service, plus two percent
21 of the member's average total salary for each of the next three
22 years of service, plus one-half percent of the member's average
23 total salary for each of the next three years of service, with
24 fractional years of service prorated based on full months served as
25 a contributing member. In making the computation for a year, the
26 year is considered to begin on the first day a contribution is made.
27 A retirement annuity under this subsection may not exceed, as of the

1 date of retirement, 87-1/2 percent of the member's average total
2 salary.

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

5 (1) the monthly benefit payable by the fund to a
6 retiree or a beneficiary of a deceased retiree or active member as a
7 result of a service retirement, disability retirement, or death of
8 an active member that occurred before October 1, 1989, increases by
9 \$200; and

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

13 (j) Beginning with the first monthly benefit payable by the
14 fund after October 1, 2007:

15 (1) a monthly benefit payable by the fund to a retiree
16 or a beneficiary of a deceased retiree or active member that is less
17 than \$1,850 per month, after taking into account the increase
18 provided for in Subsection (i) of this section, increases to \$1,850
19 per month; and

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

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

26 (b) The Back DROP election:

27 (1) results in a lump-sum payment for a number of full

1 months of service elected by the member that does not exceed the
2 lesser of the number of months of service credit the member has in
3 excess of 20 years or 48 [~~36~~] months;

4 (2) is available only to a member who takes a service
5 retirement; and

6 (3) must be made at the time of application for
7 retirement.

8 SECTION 7. Section 5.03, 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), and (g) to read as follows:

12 (a) An active member of the fund who is not eligible to
13 receive a catastrophic injury disability annuity under Subsection
14 (a-1) of this section is eligible to retire and receive a regular
15 disability retirement annuity if the member:

16 (1) makes a written application for regular disability
17 retirement with the board;

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

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

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

27 (5) has authorized the release to the board of all

1 medical records dated on or after the date of initial application
2 for employment with the department.

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

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

8 (2) is permanently so disabled as a result of a
9 catastrophic injury as to:

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

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

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

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

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

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

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

4 (2) an anxiety disorder, including post-traumatic
5 stress disorder; or

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

10 (c) Except as provided by Subsection (d) of this section, a
11 member of the fund who is on suspension and who becomes disabled as
12 a result of [~~receives a total and permanent disability resulting~~
13 ~~from~~] an injury sustained or disease contracted [~~incurred~~] while
14 the member is on suspension is eligible for a disability retirement
15 annuity under Subsection (a) or (a-1) of this section, as
16 applicable, if the suspended member makes up each deducted
17 contribution lost by reason of the suspension not later than the
18 30th day after the later of the termination date of the suspension
19 or the exhaustion of any appeal with respect to the suspension. A
20 municipality to which this Act applies shall double-match all
21 contributions made by a member under this subsection.

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

27 SECTION 8. Section 5.04, Chapter 824, Acts of the 73rd

1 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
2 Civil Statutes), is amended by amending Subsections (a) and (b) and
3 adding Subsections (a-1) and (a-2) to read as follows:

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

7 (1) 50 percent of ~~[the average of]~~ the member's average
8 total salary, if the member has served three years or more before
9 the date of retirement ~~[for the highest three years of the last five~~
10 ~~years, computed from the date of retirement, divided by 12]; ~~or]~~~~

11 (2) ~~[if the member has served less than three years~~
12 ~~before the date of retirement,]~~ 50 percent of the member's average
13 monthly ~~[total]~~ salary as of the date of retirement multiplied by
14 12, if the member has served at least two months and less than three
15 years before the date of retirement; or

16 (3) 50 percent of the member's average daily salary as
17 of the date of retirement multiplied by 360, if the member has
18 served less than two months before the date of retirement.

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

23 (1) 87.5 percent of the member's average total salary,
24 if the member has served three years or more before the date of
25 retirement;

26 (2) 87.5 percent of the member's average monthly
27 salary as of the date of retirement multiplied by 12, if the member

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

3 (3) 87.5 percent of the member's average daily salary
4 as 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-2) An annuity awarded by the board under Subsection (a-1)
7 of this section to a member who was previously awarded an annuity
8 under Subsection (a) of this section shall be increased to equal the
9 amount the annuity awarded under Subsection (a) of this section
10 would have been if the annuity had been awarded under Subsection
11 (a-1) of this section, taking into account the cost of living
12 adjustment increases provided for in Section 5.09 of this Act. This
13 subsection does not entitle the member to any additional payment
14 for the period before the effective date of the award under
15 Subsection (a-1) of this section~~[, or a theoretical monthly average~~
16 ~~if service is less than a full month].~~

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

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

26 (a) The board may cause a disability retiree to undergo a
27 medical examination or examinations by any reputable physician or

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

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

13 (1) not later than 60 months after the date of the
14 award of the annuity by the board; and

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

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

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

26 (c) For those retired because of disability on or after
27 August 30, 1971, the [monthly] disability retirement annuity may

1 not be reduced to an amount that is less than the product of:

2 (1) 2.25 percent multiplied by the number of years
3 that the retiree served in the department and contributed a portion
4 of salary as a member of the fund multiplied by the retiree's
5 average total salary, if the retiree served three years or more
6 before the date of retirement;

7 (2) 2.25 percent multiplied by the number of years
8 that the retiree served in the department and contributed a portion
9 of salary as a member of the fund multiplied by the retiree's
10 average monthly salary as of the date of retirement multiplied by
11 12, if the retiree served at least two months and less than three
12 years before the date of retirement; or

13 (3) 2.25 percent multiplied by the number of years
14 that the retiree served in the department and contributed a portion
15 of salary as a member of the fund multiplied by the retiree's
16 average daily salary as of the date of retirement multiplied by 360,
17 if the member has served less than two months before the date of
18 retirement.

19 (c-1) In making the computation under Subsection (c) of this
20 section, all [~~two percent, for each year that the retiree has served~~
21 and contributed a portion of salary, of the average of the member's
22 total salary for the highest three years of the last five years,
23 computed from the date of retirement, divided by 12, or if the
24 member has served less than three years before the date of
25 retirement, 50 percent of the member's average monthly total
26 salary, or a theoretical monthly average if service is less than a
27 full month. All] fractional years shall be prorated based on full

1 months served in ~~[on]~~ the ~~[fire or police]~~ department as a
2 contributing member of the fund before the date of retirement.

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

6 (b) If the retiree received income from other employment,
7 including self-employment, during the preceding year, the board may
8 reduce the retiree's disability retirement annuity by the amount of
9 \$1 for each month for each \$2 of income earned by the retiree from
10 the other employment during each month of the previous year, except
11 that the disability retirement annuity may not be decreased below
12 the ~~[an]~~ amount determined ~~[based on 2-1/4 percent of the retiree's~~
13 ~~average total salary computed at the time of retirement]~~ under
14 Section 5.05(c) ~~[5.04]~~ of this Act ~~[for each year of service in the~~
15 ~~department]~~.

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

19 (a) At or before its regular meeting in the month of March,
20 the board annually shall review the Consumer's Price Index for All
21 Urban Consumers (CPI-U), U.S. City Average or the nearest
22 equivalent published by the United States Bureau of Labor
23 Statistics for the preceding calendar year. If that index shows an
24 increase during the preceding calendar year in the cost of living as
25 compared with that index at the close of the previous year, the
26 board shall order an increase of all service, disability, and death
27 benefit retirement annuities by a percentage that varies by the

1 date of the member's service or disability retirement, or, in the
2 case of a member who died before retirement, the date on which the
3 member died. If the member's service retirement, disability
4 retirement, or death before retirement occurred before August 30,
5 1971, the annuity shall be increased by a percentage equal to the
6 percentage increase in the cost of living index. If the member's
7 service retirement, disability retirement, or death before
8 retirement occurred on or after August 30, 1971, but before October
9 1, 1997 [~~1993~~], the annuity shall be increased as follows: if the
10 percentage increase in the cost of living index is eight percent or
11 less, the annuity shall be increased by a percentage equal to the
12 percentage increase, and if the percentage increase in the cost of
13 living index is more than eight percent, the annuity shall be
14 increased by eight percent plus a percentage equal to 75 percent of
15 the percentage increase that is more than eight percent. If the
16 member's service retirement, disability retirement, or death
17 before retirement occurred on or after October 1, 1997 [~~1993~~], the
18 annuity shall be increased by a percentage equal to 75 percent of
19 the percentage increase in the cost of living index. A percentage
20 increase in annuities shall be rounded to the nearest one-tenth
21 percentage point for a cost of living increase.

22 SECTION 12. Section 6.02, 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), (c), (g),
25 and (m) and adding Subsections (g-1), (g-2), and (o) to read as
26 follows:

27 (a) Subject to Section 6.03 of this Act and the provisions

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

8 (1) 50 percent of the member's average total salary; or

9 (2) the same percentage of the member's average total
10 salary that the member would have been entitled to receive as a
11 retirement annuity if the member could have retired on the date of
12 death.

13 (c) Subject to [~~Section 6.08 of this Act and~~] the provisions
14 of this section, if a retiree other than a [~~disability~~] retiree
15 receiving a disability pension under Section 5.03(a) of this Act
16 dies leaving a surviving spouse or at least one dependent child, the
17 surviving spouse and dependent children are entitled to receive
18 from the fund an aggregate death benefit annuity, computed and
19 payable from the date of the member's death, in an amount that is
20 equal to the lesser of:

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

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

27 (g) A child who is born after the date of retirement of the

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

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

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

26 (m) Subject to Subsections [~~Subsection~~] (n) and (o) of this
27 section, a service retiree who marries after the date of retirement

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

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

23 SECTION 13. Subsections (a) and (b), Section 6.08, Chapter
24 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article
25 6243o, Vernon's Texas Civil Statutes), are amended to read as
26 follows:

27 (a) Except as provided by Subsection (b) of this section, a

1 surviving spouse of a retiree whose status as such resulted from any
2 marriage after the date of the retirement of the retiree and who has
3 been married to the retiree for a period of at least the 2-1/2 but
4 less than the five consecutive years preceding the date of the
5 retiree's death, [~~member~~] is entitled to a lump-sum death benefit

6 because of the retiree's [~~member's~~] death in the amount of \$2,500 [+

7 ~~(1) \$10,000 if the marriage occurred 10 years or more~~
8 ~~before the member's death;~~

9 ~~(2) \$7,500 if the marriage occurred 7-1/2 years~~
10 ~~before but less than 10 years before the member's death;~~

11 ~~(3) \$5,000 if the marriage occurred five years or~~
12 ~~more but less than 7-1/2 years before the member's death; and~~

13 ~~(4) \$2,500 if the marriage occurred 2-1/2 years or~~
14 ~~more but less than five years before the member's death].~~

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

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

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

25 (1) 10 [~~five~~] times the amount of an annuity computed
26 in accordance with Section 5.01(f-1) [~~5.01(f)~~] of this Act using
27 the deceased member's service credit and average total salary as of

1 the date of death; or

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

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

7 Sec. 6.115. DEATH BENEFIT FOR RETIREE'S ESTATE. If a
8 retiree dies and does not leave a beneficiary, the estate of the
9 retiree is entitled to a death benefit payment from the fund in an
10 amount equal to 10 [~~five~~] times the amount of the annuity awarded by
11 the board effective on the retiree's date of retirement, less any
12 retirement or disability annuity and any lump sum under Section
13 5.015 of this Act paid to the retiree.

14 SECTION 16. Subsections (e), (f), (h), and (j), Section
15 6.14, Chapter 824, Acts of the 73rd Legislature, Regular Session,
16 1993 (Article 6243o, Vernon's Texas Civil Statutes), are amended to
17 read as follows:

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

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

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

27 (f) The surviving spouse must elect the number of months

1 used in computing the lump-sum payment. The number of months may
2 not exceed the lesser of:

3 (1) the number of months of service credit in excess of
4 20 years that the deceased member has on the date of death; or

5 (2) 48 [~~36~~] months.

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

10 (1) the deceased member's service credit computed as
11 provided by Section 5.01(g) of this Act, less the number of months
12 elected by the surviving spouse under Subsection (f) of this
13 section and less any service credit for unused sick leave to which
14 the member would have been entitled; or

15 (2) 27 years.

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

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

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

25 SECTION 17. Subsection (a), Section 4.07, Subsection (c),
26 Section 5.04, and Subsection (c), Section 6.08, Chapter 824, Acts
27 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,

1 Vernon's Texas Civil Statutes), are repealed.

2 SECTION 18. This Act takes effect October 1, 2007.