

1-1 By: Wentworth S.B. No. 1777
1-2 (In the Senate - Filed March 9, 2007; March 21, 2007, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 23, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 3, Nays 0;
1-6 April 23, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1777 By: Patrick

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the pension retirement system in certain municipalities
1-11 for firefighters and police.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 1.02, Chapter 824, Acts of the 73rd
1-14 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
1-15 Civil Statutes), is amended by amending Subdivision (15) and adding
1-16 Subdivisions (4-a), (8-a), and (12-a) to read as follows:

1-17 (4-a) "Catastrophic injury" means irreparable
1-18 physical bodily injury sustained by a member as a direct and
1-19 immediate result of the member's engaging in an activity that:

1-20 (A) constitutes the performance of the member's
1-21 duties as a fire fighter or police officer;

1-22 (B) involves an extraordinary degree of risk of
1-23 bodily injury or death; and

1-24 (C) does not result in death.

1-25 (8-a) "Disability" means a regular disability under
1-26 Section 5.03(a) of this Act or a catastrophic injury disability
1-27 under Section 5.03(a-1) of this Act.

1-28 (12-a) "Qualified mayoral designee" means an
1-29 individual designated by the mayor of a municipality to which this
1-30 Act applies who is a member or former member of the city council of,
1-31 or an employee of, a municipality to which this Act applies.

1-32 (15) "Retirement annuity" means [monthly] pension
1-33 benefits payable to a retiree on an annual basis in accordance with
1-34 this Act.

1-35 SECTION 2. Subsection (a), Section 2.01, Chapter 824, Acts
1-36 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,
1-37 Vernon's Texas Civil Statutes), is amended to read as follows:

1-38 (a) The fund is governed by a board of trustees consisting
1-39 of the following nine members:

1-40 (1) the mayor of a municipality to which this Act
1-41 applies or a qualified mayoral designee;

1-42 (2) two members of the governing body of a
1-43 municipality to which this Act applies, appointed by that governing
1-44 body;

1-45 (3) two active members who are fire fighters below the
1-46 rank of fire chief, elected by secret ballot by a majority of the
1-47 votes cast by the members of the fire department;

1-48 (4) two active members who are police officers below
1-49 the rank of police chief, elected by secret ballot by a majority of
1-50 the votes cast by the members of the police department;

1-51 (5) a retiree representative of the fire department,
1-52 elected by secret ballot by a majority of the votes cast by the
1-53 retirees of the fire department and the surviving spouses who are
1-54 receiving benefits with respect to deceased members or retirees of
1-55 the fire department; and

1-56 (6) a retiree representative of the police department,
1-57 elected by secret ballot by a majority of the votes cast by the
1-58 retirees of the police department and the surviving spouses who are
1-59 receiving benefits with respect to deceased members or retirees of
1-60 the police department.

1-61 SECTION 3. Subsection (a), Section 2.02, Chapter 824, Acts
1-62 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,
1-63 Vernon's Texas Civil Statutes), is amended to read as follows:

2-1 (a) The mayor of a municipality to which this Act applies,
 2-2 or a qualified mayoral designee, serves on the board for the term of
 2-3 the mayor's office except that, if the mayor appoints a mayoral
 2-4 designee, the mayor may replace or remove that mayoral designee at
 2-5 the mayor's discretion. An individual designated by the mayor to
 2-6 serve on the board under this subsection may only serve on the board
 2-7 while the individual is a qualified mayoral designee.

2-8 SECTION 4. Subsection (b), Section 4.07, Chapter 824, Acts
 2-9 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,
 2-10 Vernon's Texas Civil Statutes), is amended to read as follows:

2-11 (b) A member of the fund who terminates employment before
 2-12 the member's right to benefits under the fund has vested [~~but who~~
 2-13 ~~has contributed to the fund for at least five years~~] is entitled to
 2-14 a refund of the member's contributions that were picked up by the
 2-15 municipality. That refund shall be paid without interest. A refund
 2-16 under this section is not available to a member who terminates
 2-17 employment to receive a disability pension or to a survivor
 2-18 beneficiary under this Act. Except as provided by Section 4.08 of
 2-19 this Act, a person's acceptance of a refund under this subsection
 2-20 precludes the person from any other right or benefit under this Act.

2-21 SECTION 5. Section 5.01, Chapter 824, Acts of the 73rd
 2-22 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
 2-23 Civil Statutes), is amended by amending Subsection (f) and adding
 2-24 Subsections (f-1), (i), and (j) to read as follows:

2-25 (f) The board shall compute the retirement annuity of a
 2-26 member who retires after September 30, 2001, but before October 1,
 2-27 2007, at the rate of 2-1/4 percent of the member's average total
 2-28 salary for each of the first 20 years of service, plus 4-1/2 percent
 2-29 of the member's average total salary for each of the next seven
 2-30 years of service, plus three percent of the member's average total
 2-31 salary for each of the next three years of service, plus one-half
 2-32 percent of the member's average total salary for each of the next
 2-33 four years of service, with fractional years of service prorated
 2-34 based on full months served as a contributing member. In making the
 2-35 computation for a year, the year is considered to begin on the first
 2-36 day a contribution is made. A retirement annuity under this
 2-37 subsection may not exceed, as of the date of retirement, 87-1/2
 2-38 percent of the member's average total salary.

2-39 (f-1) The board shall compute the retirement annuity of a
 2-40 member who retires after September 30, 2007, at the rate of 2-1/4
 2-41 percent of the member's average total salary for each of the first
 2-42 20 years of service, plus five percent of the member's average total
 2-43 salary for each of the next seven years of service, plus two percent
 2-44 of the member's average total salary for each of the next three
 2-45 years of service, plus one-half percent of the member's average
 2-46 total salary for each of the next three years of service, with
 2-47 fractional years of service prorated based on full months served as
 2-48 a contributing member. In making the computation for a year, the
 2-49 year is considered to begin on the first day a contribution is made.
 2-50 A retirement annuity under this subsection may not exceed, as of the
 2-51 date of retirement, 87-1/2 percent of the member's average total
 2-52 salary.

2-53 (i) Beginning with the first monthly benefit payable by the
 2-54 fund after October 1, 2007:

2-55 (1) the monthly benefit payable by the fund to a
 2-56 retiree or a beneficiary of a deceased retiree or active member as a
 2-57 result of a service retirement, disability retirement, or death of
 2-58 an active member that occurred before October 1, 1989, increases by
 2-59 \$200; and

2-60 (2) a monthly benefit that is divided and payable to
 2-61 more than one beneficiary in accordance with Section 6.02 of this
 2-62 Act increases by a total amount of \$200.

2-63 (j) Beginning with the first monthly benefit payable by the
 2-64 fund after October 1, 2007:

2-65 (1) a monthly benefit payable by the fund to a retiree
 2-66 or a beneficiary of a deceased retiree or active member that is less
 2-67 than \$1,850 per month, after taking into account the increase
 2-68 provided for in Subsection (i) of this section, increases to \$1,850
 2-69 per month; and

3-1 (2) a monthly benefit that is divided and payable to
3-2 more than one beneficiary in accordance with Section 6.02 of this
3-3 Act increases to a total amount of \$1,850.

3-4 SECTION 6. Subsection (b), Section 5.015, Chapter 824, Acts
3-5 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,
3-6 Vernon's Texas Civil Statutes), is amended to read as follows:

3-7 (b) The Back DROP election:
3-8 (1) results in a lump-sum payment for a number of full
3-9 months of service elected by the member that does not exceed the
3-10 lesser of the number of months of service credit the member has in
3-11 excess of 20 years or 48 [36] months;

3-12 (2) is available only to a member who takes a service
3-13 retirement; and

3-14 (3) must be made at the time of application for
3-15 retirement.

3-16 SECTION 7. Section 5.03, Chapter 824, Acts of the 73rd
3-17 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
3-18 Civil Statutes), is amended by amending Subsections (a) and (c) and
3-19 adding Subsections (a-1), (a-2), and (g) to read as follows:

3-20 (a) An active member of the fund who is not eligible to
3-21 receive a catastrophic injury disability annuity under Subsection
3-22 (a-1) of this section is eligible to retire and receive a regular
3-23 disability retirement annuity if the member:

3-24 (1) makes a written application for regular disability
3-25 retirement with the board;

3-26 (2) is permanently disabled through injury or disease
3-27 so as to be unable to perform the duties of any available position
3-28 in the department and has been off active duty for a continuous
3-29 period of not less than 30 days before the date of the application
3-30 for disability retirement;

3-31 (3) has had all member contributions required by this
3-32 Act made on the member's behalf;

3-33 (4) is not on indefinite suspension as described in
3-34 Subsection (d) of this section; and

3-35 (5) has authorized the release to the board of all
3-36 medical records dated on or after the date of initial application
3-37 for employment with the department.

3-38 (a-1) An active member of the fund is eligible to retire and
3-39 receive a catastrophic injury disability retirement annuity if the
3-40 member:

3-41 (1) makes a written application for catastrophic
3-42 injury disability retirement with the board;

3-43 (2) is permanently so disabled as a result of a
3-44 catastrophic injury as to:

3-45 (A) be unable to secure any type of third-party
3-46 employment, or engage in any self-employment, other than sporadic
3-47 third-party or self-employment; and

3-48 (B) have, as a result of the lack of third-party
3-49 employment or self-employment, an annual income less than the
3-50 poverty level for one person in the 48 contiguous states of the
3-51 United States as provided under the poverty guidelines published
3-52 from time to time by the United States Department of Health and
3-53 Human Services, or similar guidelines selected by the board;

3-54 (3) has had all member contributions required by this
3-55 Act made on the member's behalf;

3-56 (4) is not on indefinite suspension as described in
3-57 Subsection (d) of this section; and

3-58 (5) has authorized the release to the board of all
3-59 medical records dated on or after the date of initial application
3-60 for employment with the department.

3-61 (a-2) The following diseases, disorders, or injuries are
3-62 not catastrophic injuries:

3-63 (1) heart disease or lung disease contracted as a
3-64 result of repeated exposure to occupational environmental
3-65 conditions over a period of months or years;

3-66 (2) an anxiety disorder, including post-traumatic
3-67 stress disorder; or

3-68 (3) a soft-tissue back, neck, or spine injury,
3-69 including a sprain, strain, subluxation, or repetitive stress

4-1 injury, that does not result in paralysis, as determined by a
 4-2 physician authorized or appointed by the board.

4-3 (c) Except as provided by Subsection (d) of this section, a
 4-4 member of the fund who is on suspension and who becomes disabled as
 4-5 a result of [receives a total and permanent disability resulting
 4-6 from] an injury sustained or disease contracted [incurred] while
 4-7 the member is on suspension is eligible for a disability retirement
 4-8 annuity under Subsection (a) or (a-1) of this section, as
 4-9 applicable, if the suspended member makes up each deducted
 4-10 contribution lost by reason of the suspension not later than the
 4-11 30th day after the later of the termination date of the suspension
 4-12 or the exhaustion of any appeal with respect to the suspension. A
 4-13 municipality to which this Act applies shall double-match all
 4-14 contributions made by a member under this subsection.

4-15 (g) A disability retiree who becomes disabled before
 4-16 October 1, 2007, and who is otherwise qualified to receive a
 4-17 catastrophic injury disability retirement annuity under Subsection
 4-18 (a-1) of this section is eligible to receive an annuity under that
 4-19 subsection, subject to Section 5.04(a-2) of this Act.

4-20 SECTION 8. Section 5.04, Chapter 824, Acts of the 73rd
 4-21 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
 4-22 Civil Statutes), is amended by amending Subsections (a) and (b) and
 4-23 adding Subsections (a-1) and (a-2) to read as follows:

4-24 (a) A member who is eligible to retire and receive a
 4-25 ~~monthly~~ disability retirement annuity under Section 5.03(a) of
 4-26 this Act is entitled to receive an annuity from the fund equal to:

4-27 (1) 50 percent of [the average of] the member's average
 4-28 total salary, if the member has served three years or more before
 4-29 the date of retirement [for the highest three years of the last five
 4-30 years, computed from the date of retirement, divided by 12]; [or]

4-31 (2) [if the member has served less than three years
 4-32 before the date of retirement,] 50 percent of the member's average
 4-33 monthly [total] salary as of the date of retirement multiplied by
 4-34 12, if the member has served at least two months and less than three
 4-35 years before the date of retirement; or

4-36 (3) 50 percent of the member's average daily salary as
 4-37 of the date of retirement multiplied by 360, if the member has
 4-38 served less than two months before the date of retirement.

4-39 (a-1) Subject to Subsection (a-2) of this section a member
 4-40 who is eligible to retire and receive a catastrophic injury
 4-41 disability retirement annuity under Section 5.03(a-1) of this Act
 4-42 is entitled to receive an annuity from the fund equal to:

4-43 (1) 87.5 percent of the member's average total salary,
 4-44 if the member has served three years or more before the date of
 4-45 retirement;

4-46 (2) 87.5 percent of the member's average monthly
 4-47 salary as of the date of retirement multiplied by 12, if the member
 4-48 has served at least two months and less than three years before the
 4-49 date of retirement; or

4-50 (3) 87.5 percent of the member's average daily salary
 4-51 as of the date of retirement multiplied by 360, if the member has
 4-52 served less than two months before the date of retirement.

4-53 (a-2) An annuity awarded by the board under Subsection (a-1)
 4-54 of this section to a member who was previously awarded an annuity
 4-55 under Subsection (a) of this section shall be increased to equal the
 4-56 amount the annuity awarded under Subsection (a) of this section
 4-57 would have been if the annuity had been awarded under Subsection
 4-58 (a-1) of this section, taking into account the cost of living
 4-59 adjustment increases provided for in Section 5.09 of this Act. This
 4-60 subsection does not entitle the member to any additional payment
 4-61 for the period before the effective date of the award under
 4-62 Subsection (a-1) of this section[, or a theoretical monthly average
 4-63 if service is less than a full month].

4-64 (b) In making computations under this section, all [All]
 4-65 fractional years must be [under this section are] prorated based on
 4-66 full months served in [on] the [fire or police] department as a
 4-67 contributing member of the fund.

4-68 SECTION 9. Section 5.05, Chapter 824, Acts of the 73rd
 4-69 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas

Civil Statutes), is amended by amending Subsections (a) and (c) and adding Subsections (a-1), (a-2), (a-3), and (c-1) to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

(b) If the retiree received income from other employment, including self-employment, during the preceding year, the board may reduce the retiree's disability retirement annuity by the amount of \$1 for each month for each \$2 of income earned by the retiree from the other employment during each month of the previous year, except

6-1 that the disability retirement annuity may not be decreased below
 6-2 the ~~[an]~~ amount determined ~~[based on 2-1/4 percent of the retiree's~~
 6-3 ~~average total salary computed at the time of retirement]~~ under
 6-4 Section 5.05(c) ~~[5.04]~~ of this Act ~~[for each year of service in the~~
 6-5 ~~department]~~.

6-6 SECTION 11. Subsection (a), Section 5.09, Chapter 824, Acts
 6-7 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,
 6-8 Vernon's Texas Civil Statutes), is amended to read as follows:

6-9 (a) At or before its regular meeting in the month of March,
 6-10 the board annually shall review the Consumer's Price Index for All
 6-11 Urban Consumers (CPI-U), U.S. City Average or the nearest
 6-12 equivalent published by the United States Bureau of Labor
 6-13 Statistics for the preceding calendar year. If that index shows an
 6-14 increase during the preceding calendar year in the cost of living as
 6-15 compared with that index at the close of the previous year, the
 6-16 board shall order an increase of all service, disability, and death
 6-17 benefit retirement annuities by a percentage that varies by the
 6-18 date of the member's service or disability retirement, or, in the
 6-19 case of a member who died before retirement, the date on which the
 6-20 member died. If the member's service retirement, disability
 6-21 retirement, or death before retirement occurred before August 30,
 6-22 1971, the annuity shall be increased by a percentage equal to the
 6-23 percentage increase in the cost of living index. If the member's
 6-24 service retirement, disability retirement, or death before
 6-25 retirement occurred on or after August 30, 1971, but before October
 6-26 1, 1997 ~~[1993]~~, the annuity shall be increased as follows: if the
 6-27 percentage increase in the cost of living index is eight percent or
 6-28 less, the annuity shall be increased by a percentage equal to the
 6-29 percentage increase, and if the percentage increase in the cost of
 6-30 living index is more than eight percent, the annuity shall be
 6-31 increased by eight percent plus a percentage equal to 75 percent of
 6-32 the percentage increase that is more than eight percent. If the
 6-33 member's service retirement, disability retirement, or death
 6-34 before retirement occurred on or after October 1, 1997 ~~[1993]~~, the
 6-35 annuity shall be increased by a percentage equal to 75 percent of
 6-36 the percentage increase in the cost of living index. A percentage
 6-37 increase in annuities shall be rounded to the nearest one-tenth
 6-38 percentage point for a cost of living increase.

6-39 SECTION 12. Section 6.02, Chapter 824, Acts of the 73rd
 6-40 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
 6-41 Civil Statutes), is amended by amending Subsections (a), (c), (g),
 6-42 and (m) and adding Subsections (g-1), (g-2), and (o) to read as
 6-43 follows:

6-44 (a) Subject to Section 6.03 of this Act and the provisions
 6-45 of this section, if a member or ~~[disability]~~ retiree receiving a
 6-46 disability pension under Section 5.03(a) of this Act dies leaving a
 6-47 surviving spouse or at least one dependent child, the surviving
 6-48 spouse and the children are entitled to receive from the fund an
 6-49 aggregate death benefit annuity, computed and payable from the date
 6-50 of the member's death. The surviving spouse may elect the annuity
 6-51 in an amount that is equal to either:

6-52 (1) 50 percent of the member's average total salary; or
 6-53 (2) the same percentage of the member's average total
 6-54 salary that the member would have been entitled to receive as a
 6-55 retirement annuity if the member could have retired on the date of
 6-56 death.

6-57 (c) Subject to ~~[Section 6.08 of this Act and]~~ the provisions
 6-58 of this section, if a retiree other than a ~~[disability]~~ retiree
 6-59 receiving a disability pension under Section 5.03(a) of this Act
 6-60 dies leaving a surviving spouse or at least one dependent child, the
 6-61 surviving spouse and dependent children are entitled to receive
 6-62 from the fund an aggregate death benefit annuity, computed and
 6-63 payable from the date of the member's death, in an amount that is
 6-64 equal to the lesser of:

6-65 (1) the retirement annuity to which a member with the
 6-66 same average total salary as the deceased retiree and 27 years of
 6-67 service credit would be entitled if the member retired on the date
 6-68 of the deceased retiree's death; or

6-69 (2) the retirement annuity the retiree was receiving

7-1 at the time of the retiree's death.

7-2 (g) A child who is born after the date of retirement of the
7-3 member is not entitled to a death benefit annuity under this Act
7-4 unless the retiree was married to the other parent of the child on
7-5 the date of retirement. A surviving spouse of a retiree who was not
7-6 married to the retiree until after the retiree's retirement is
7-7 entitled to receive only the benefits, if any, provided under
7-8 Subsection (g-1) [~~(m)~~] of this section or [~~and~~] Section 6.08 of this
7-9 Act.

7-10 (g-1) A surviving spouse of a retiree who was not married to
7-11 the retiree until after the date of the retiree's retirement is
7-12 entitled to receive the entire death benefit of a surviving spouse
7-13 in this section if the surviving spouse was married to the retiree
7-14 for a period of at least the five consecutive years preceding the
7-15 date of the retiree's death. A surviving spouse of a retiree who
7-16 was not married to the retiree until after the retiree's retirement
7-17 and was not married to the retiree for a period of the five
7-18 consecutive years preceding the date of the retiree's death is
7-19 entitled to receive only the benefits, if any, provided under
7-20 Section 6.08 of this Act. The benefit provided by this subsection
7-21 applies only with respect to a retiree death that occurs on or after
7-22 October 1, 2007.

7-23 (g-2) The surviving spouse of a retiree who made an election
7-24 under Subsection (m) of this section before October 1, 2007, and who
7-25 does not cancel that election in accordance with Subsection (m) of
7-26 this section is not entitled to receive the death benefit annuity
7-27 provided for under Subsection (g-1) of this section.

7-28 (m) Subject to Subsections [~~Subsection~~] (n) and (o) of this
7-29 section, a service retiree who marries after the date of retirement
7-30 may elect to receive a reduced annuity during the retiree's
7-31 lifetime and provide for a death benefit annuity to the retiree's
7-32 surviving spouse. The amount of the reduced annuity and spousal
7-33 death benefit shall be determined by the fund's actuary and shall be
7-34 actuarially equivalent to the annuity the retiree was receiving
7-35 immediately before the election under this subsection. An election
7-36 made under this subsection may be canceled by the retiree before the
7-37 retiree's death [~~on the divorce of the retiree or the death of the~~
7-38 ~~retiree's spouse~~]. After the election is canceled, the retiree
7-39 shall be entitled to receive the same annuity to which the retiree
7-40 would have been entitled if the election had not been made. A
7-41 retiree who cancels an election under this subsection is not
7-42 entitled to any additional benefits for the period of time before
7-43 the cancellation. The board shall adopt policies and procedures
7-44 governing elections and cancellation of elections under this
7-45 subsection. An election or cancellation of an election made under
7-46 this subsection must be made in accordance with the board's
7-47 policies and procedures.

7-48 (o) A retiree may not make an election under Subsection (m)
7-49 of this section after September 30, 2007. A cancellation of an
7-50 election by a retiree under Subsection (m) of this section must be
7-51 made on or before December 31, 2007.

7-52 SECTION 13. Subsections (a) and (b), Section 6.08, Chapter
7-53 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article
7-54 6243o, Vernon's Texas Civil Statutes), are amended to read as
7-55 follows:

7-56 (a) Except as provided by Subsection (b) of this section, a
7-57 surviving spouse of a retiree whose status as such resulted from any
7-58 marriage after the date of the retirement of the retiree and who has
7-59 been married to the retiree for a period of at least the 2-1/2 but
7-60 less than the five consecutive years preceding the date of the
7-61 retiree's death, [~~member~~] is entitled to a lump-sum death benefit
7-62 because of the retiree's [~~member's~~] death in the amount of \$2,500 [+
7-63

7-64 [~~(1) \$10,000 if the marriage occurred 10 years or more~~
7-65 ~~before the member's death,~~

7-66 [~~(2) \$7,500 if the marriage occurred 7-1/2 years~~
7-67 ~~before but less than 10 years before the member's death,~~

7-68 [~~(3) \$5,000 if the marriage occurred five years or~~
7-69 ~~more but less than 7-1/2 years before the member's death, and~~

7-69 [~~(4) \$2,500 if the marriage occurred 2-1/2 years or~~

8-1 ~~more but less than five years before the member's death].~~

8-2 (b) A surviving spouse is not entitled to a lump-sum death
8-3 benefit under this section if a child is entitled to receive death
8-4 benefits under this Act as a result of the retiree's death.

8-5 SECTION 14. Section 6.11, Chapter 824, Acts of the 73rd
8-6 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
8-7 Civil Statutes), is amended to read as follows:

8-8 Sec. 6.11. DEATH BENEFIT FOR ACTIVE MEMBER'S ESTATE. If an
8-9 active member dies and does not leave a beneficiary, the estate of
8-10 the deceased member is entitled to a death benefit payment from the
8-11 fund in an amount equal to the greater of:

8-12 (1) 10 [~~five~~] times the amount of an annuity computed
8-13 in accordance with Section 5.01(f-1) [~~5.01(f)~~] of this Act using
8-14 the deceased member's service credit and average total salary as of
8-15 the date of death; or

8-16 (2) the refund of the member's contributions that were
8-17 picked up by the municipality.

8-18 SECTION 15. Section 6.115, Chapter 824, Acts of the 73rd
8-19 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
8-20 Civil Statutes), is amended to read as follows:

8-21 Sec. 6.115. DEATH BENEFIT FOR RETIREE'S ESTATE. If a
8-22 retiree dies and does not leave a beneficiary, the estate of the
8-23 retiree is entitled to a death benefit payment from the fund in an
8-24 amount equal to 10 [~~five~~] times the amount of the annuity awarded by
8-25 the board effective on the retiree's date of retirement, less any
8-26 retirement or disability annuity and any lump sum under Section
8-27 5.015 of this Act paid to the retiree.

8-28 SECTION 16. Subsections (e), (f), (h), and (j), Section
8-29 6.14, Chapter 824, Acts of the 73rd Legislature, Regular Session,
8-30 1993 (Article 6243o, Vernon's Texas Civil Statutes), are amended to
8-31 read as follows:

8-32 (e) The annuity used to compute the lump-sum payment is
8-33 determined in the manner provided by Section 5.01(f-1) [~~5.01(f)~~] of
8-34 this Act for retired members, using:

8-35 (1) the deceased member's average total salary for all
8-36 months, excluding the number of months immediately preceding the
8-37 member's date of death that equal the number of months elected by
8-38 the surviving spouse under Subsection (f) of this section; and

8-39 (2) the amount of service credit as determined by
8-40 Subsection (g) or (h) of this section.

8-41 (f) The surviving spouse must elect the number of months
8-42 used in computing the lump-sum payment. The number of months may
8-43 not exceed the lesser of:

8-44 (1) the number of months of service credit in excess of
8-45 20 years that the deceased member has on the date of death; or

8-46 (2) 48 [~~36~~] months.

8-47 (h) In determining the annuity under Subsection (e) of this
8-48 section for a surviving spouse whose death benefit annuity is
8-49 limited by Section 6.02(b) of this Act, the deceased member's
8-50 service credit is the lesser of:

8-51 (1) the deceased member's service credit computed as
8-52 provided by Section 5.01(g) of this Act, less the number of months
8-53 elected by the surviving spouse under Subsection (f) of this
8-54 section and less any service credit for unused sick leave to which
8-55 the member would have been entitled; or

8-56 (2) 27 years.

8-57 (j) The reduced annuity is determined in the manner provided
8-58 by Section 5.01(f-1) [~~5.01(f)~~] of this Act for retired members,
8-59 using:

8-60 (1) the deceased member's average total salary for all
8-61 months, excluding the number of months immediately preceding the
8-62 member's date of death that equal the number of months elected by
8-63 the surviving spouse under Subsection (f) of this section; and

8-64 (2) the amount of service credit as determined by
8-65 Subsection (k) or (l) of this section.

8-66 SECTION 17. Subsection (a), Section 4.07, Subsection (c),
8-67 Section 5.04, and Subsection (c), Section 6.08, Chapter 824, Acts
8-68 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,
8-69 Vernon's Texas Civil Statutes), are repealed.

9-1

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

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