

By: Rodriguez

H.B. No. 2829

A BILL TO BE ENTITLED

1 AN ACT

2 relating to participation in and benefits and administration of  
3 retirement systems for firefighters in certain municipalities.

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

5 SECTION 1. Section 1.02, Chapter 183 (S.B. 598), Acts of the  
6 64th Legislature, Regular Session, 1975 (Article 6243e.1, Vernon's  
7 Texas Civil Statutes), is amended by adding Subdivision (13) to  
8 read as follows:

9 (13) "Spouse" means an individual to whom a member is  
10 legally married under Subtitle A, Title 1, Family Code, or a  
11 comparable law of another jurisdiction.

12 SECTION 2. Section 2.03(c), Chapter 183 (S.B. 598), Acts of  
13 the 64th Legislature, Regular Session, 1975 (Article 6243e.1,  
14 Vernon's Texas Civil Statutes), is amended to read as follows:

15 (c) Each election is by secret written ballot on a date the  
16 board of trustees determines. Only persons who have been nominated  
17 may be listed on the written ballot. Nominations may be made in  
18 person, by mail, or by telephone to the office of the fund and must  
19 be received between September [~~October~~] 1 and September [~~October~~]  
20 15.

21 SECTION 3. Article 2, Chapter 183 (S.B. 598), Acts of the  
22 64th Legislature, Regular Session, 1975 (Article 6243e.1, Vernon's  
23 Texas Civil Statutes), is amended by adding Section 2.13 to read as  
24 follows:

1       Sec. 2.13. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS,  
2 RETIREES, ANNUITANTS, OR BENEFICIARIES. (a) Information contained  
3 in records in the custody of the fund concerning an individual  
4 member, retiree, annuitant, or beneficiary is confidential under  
5 Section 552.101, Government Code, and may not be disclosed in a form  
6 identifiable with a specific individual unless:

7               (1) the information is disclosed to:

8                       (A) the individual or the individual's attorney,  
9 guardian, executor, administrator, conservator, or other person  
10 who the administrator of the fund determines is acting in the  
11 interest of the individual or the individual's estate;

12                      (B) a spouse or former spouse of the individual  
13 after the administrator of the fund determines that the information  
14 is relevant to the spouse's or former spouse's interest in member  
15 accounts, benefits, or other amounts payable by the fund;

16                      (C) a governmental official or employee after the  
17 administrator of the fund determines that disclosure of the  
18 information requested is reasonably necessary to the performance of  
19 the duties of the official or employee; or

20                      (D) a person authorized by the individual in  
21 writing to receive the information; or

22               (2) the information is disclosed pursuant to a  
23 subpoena and the administrator of the fund determines that the  
24 individual will have a reasonable opportunity to contest the  
25 subpoena.

26       (b) This section does not prevent the disclosure of the  
27 status or identity of an individual as a member, former member,

1 retiree, deceased member or retiree, or beneficiary of the fund.

2 (c) A determination and disclosure under Subsection (a) may  
3 be made without notice to the individual member, retiree,  
4 annuitant, or beneficiary.

5 SECTION 4. Section 5.04, Chapter 183 (S.B. 598), Acts of the  
6 64th Legislature, Regular Session, 1975 (Article 6243e.1, Vernon's  
7 Texas Civil Statutes), is amended by amending Subsection (b) and  
8 adding Subsection (b-1) to read as follows:

9 (b) The three percent factor used in this section may be  
10 changed to some other percent if the change:

11 (1) is first approved by the board's actuary;

12 (2) is approved by the board of trustees;

13 (3) applies [~~only~~] to one or any combination of the  
14 following groups:

15 (A) firefighters who are employed on an active,  
16 full-time basis in the fire department at the time of the change;

17 (B) firefighters who begin service with the fire  
18 department after the change becomes effective; and

19 (C) members who retire under Section 5.06 of this  
20 Act after the change becomes effective; and

21 (4) does not reduce a member's benefit for service  
22 credit accumulated before the date of the change.

23 (b-1) In determining whether to approve an increase in the  
24 three percent factor under Subsection (b) of this section, the  
25 board's actuary shall take into consideration whether the fund has  
26 reserves sufficient to enable the payment of a cost-of-living  
27 adjustment under Section 9.04(a) of this Act to all persons

1 entitled to an adjustment under that section at a level that is  
2 equal to the average percentage increase in the Consumer Price  
3 Index for All Urban Consumers as determined by the United States  
4 Department of Labor for the 10 annual periods preceding the  
5 proposed effective date of the change.

6 SECTION 5. Section 7.02, Chapter 183 (S.B. 598), Acts of the  
7 64th Legislature, Regular Session, 1975 (Article 6243e.1, Vernon's  
8 Texas Civil Statutes), is amended to read as follows:

9 Sec. 7.02. SURVIVING SPOUSE OF RETIREE. (a) On the death of  
10 a retiree, the retiree's surviving spouse is entitled to receive an  
11 immediate monthly benefit from the fund of 75 percent of the  
12 retirement benefit that was being paid to the retiree if the spouse:

13 (1) was married to the retiree at the time of the  
14 retiree's retirement; or

15 (2) married the retiree after the retiree's retirement  
16 and was married to the retiree for at least 24 consecutive months.

17 (b) For purposes of Subsection (a)(1) of this section, with  
18 respect to an informal marriage established in this state, a  
19 surviving spouse is considered married to a retiree as of the date a  
20 declaration of informal marriage was recorded in accordance with  
21 Subchapter E, Chapter 2, Family Code.

22 SECTION 6. Section 9.04, Chapter 183 (S.B. 598), Acts of the  
23 64th Legislature, Regular Session, 1975 (Article 6243e.1, Vernon's  
24 Texas Civil Statutes), is amended by amending Subsections (a) and  
25 (b) and adding Subsections (a-1), (a-2), (a-3), (a-4), and (b-1) to  
26 read as follows:

27 (a) Subject to this section and except [~~Except~~] as provided

1 by Section 5.05 of this Act, a person receiving a retirement or  
2 survivor's benefit under this Act in the month immediately  
3 preceding the date an adjustment is to take effect is entitled to an  
4 annual cost-of-living adjustment of that person's benefit  
5 calculated in accordance with this section.

6 (a-1) The annual cost-of-living adjustment under this  
7 section:

8 (1) is based on the collective adjustment amount  
9 calculated in accordance with Subsection (a-2) of this section and  
10 allocated among persons eligible for an adjustment under this  
11 section in a manner and in an amount determined by the board of  
12 trustees;

13 (2) may take effect at any time during a given calendar  
14 year, as determined by the board of trustees; and

15 (3) may not reduce a person's benefit to an amount less  
16 than the person received when the benefit first was paid to that  
17 person.

18 (a-2) The collective adjustment amount described by  
19 Subsection (a-1) of this section:

20 (1) is an amount equal to the percentage [~~based on any~~]  
21 increase in the Consumer Price Index for All Urban Consumers as  
22 determined by the United States Department of Labor for the  
23 applicable determination period immediately preceding the date the  
24 cost-of-living adjustment is to take effect, multiplied by the  
25 total amount of benefits payable to persons who are eligible to  
26 receive an adjustment under this section; and

27 (2) if applicable, is reduced by an amount that the

1 board's actuary determines is necessary to maintain the financial  
2 stability of the fund.

3 (a-3) For purposes of Subsection (a-2) of this section, the  
4 applicable determination period is the shorter of:

5 (1) 12 months; or

6 (2) a period determined by the board of trustees  
7 [since the last increase in benefits under this section].

8 (a-4) In determining whether to reduce the collective  
9 adjustment amount under Subsection (a-2) of this section, the  
10 board's actuary may not take into consideration the cost of future  
11 adjustments under this section.

12 (b) A cost-of-living [If an] adjustment [under Subsection  
13 (a) of this section would exceed one percent of a person's benefit,  
14 the portion of the adjustment that exceeds one percent of the  
15 benefit] may not be made under this section unless:

16 (1) the board's actuary has advised the board of  
17 trustees that the adjustment would not impair the financial  
18 stability of the fund; and

19 (2) the adjustment has been approved by the  
20 affirmative vote of a majority of the board of trustees. [If an  
21 adjustment under Subsection (a) of this section would be one  
22 percent or less of a person's benefit, the adjustment may not be  
23 made under this section unless the board's actuary has advised the  
24 board of trustees that the adjustment would not impair the  
25 financial stability of the fund.]

26 (b-1) In determining whether an adjustment would impair the  
27 financial stability of the fund under Subsection (b) of this

1 section, the board's actuary shall take into consideration the cost  
2 of future adjustments under this section.

3 SECTION 7. Section 11.01, Chapter 183 (S.B. 598), Acts of  
4 the 64th Legislature, Regular Session, 1975 (Article 6243e.1,  
5 Vernon's Texas Civil Statutes), is amended to read as follows:

6 Sec. 11.01. INVESTMENTS. The board of trustees in its sole  
7 discretion may invest, reinvest, or change the assets of the fund.  
8 The board of trustees shall invest the funds in whatever  
9 instruments or investments the board considers prudent. In making  
10 investments for the fund, the board of trustees shall discharge its  
11 duties with the care, skill, prudence, and diligence under the  
12 circumstances then prevailing that a prudent person acting in a  
13 similar capacity and familiar with such matters would use in the  
14 conduct of an enterprise of a similar character and with similar  
15 aims [~~PERMITTED INVESTMENTS. When the board of trustees determines~~  
16 ~~that there is in the fund a surplus exceeding the reasonable, safe~~  
17 ~~amount necessary to take care of the current demands on the fund,~~  
18 ~~the surplus, or so much of it as the board of trustees considers~~  
19 ~~prudent, may be invested in:~~

20 [~~(1) direct obligations of or obligations the~~  
21 ~~principal and interest of which are guaranteed by the United States~~  
22 ~~or its agencies or instrumentalities,~~

23 [~~(2) short-term investment funds, mutual funds, or~~  
24 ~~their equivalent that are rated as investment quality or higher by a~~  
25 ~~nationally recognized investment rating firm,~~

26 [~~(3) fully collateralized or direct repurchase~~  
27 ~~agreements, including direct and reverse security repurchase~~

1 ~~agreements and security lending agreements that:~~

2 ~~[(A) have a defined termination date,~~

3 ~~[(B) are secured by obligations described by this~~  
4 ~~section or by cash, and~~

5 ~~[(C) are pledged with a third party selected or~~  
6 ~~approved by a majority vote of the board of trustees,~~

7 ~~[(4) corporate bonds, including convertible bonds,~~  
8 ~~collateralized mortgage obligations, and asset-backed securities,~~  
9 ~~rated as investment quality or higher by a nationally recognized~~  
10 ~~investment rating firm,~~

11 ~~[(5) common stocks, preferred stocks, and convertible~~  
12 ~~preferred stocks of companies incorporated in the United States and~~  
13 ~~foreign stocks that are designated in United States dollars and~~  
14 ~~that are registered with the Securities and Exchange Commission and~~  
15 ~~listed on a United States exchange or by the National Association of~~  
16 ~~Securities Dealers Automated Quotations,~~

17 ~~[(6) foreign equity and fixed income investments,~~

18 ~~[(7) mutual funds, common funds, and their equivalents~~  
19 ~~that contain only items listed in Subdivisions (1)-(6) of this~~  
20 ~~section, and~~

21 ~~[(8) convertible stocks and bonds recognized as~~  
22 ~~investment quality or higher by a nationally recognized investment~~  
23 ~~rating firm or by the investment manager].~~

24 SECTION 8. Section 11.03, Chapter 183 (S.B. 598), Acts of  
25 the 64th Legislature, Regular Session, 1975 (Article 6243e.1,  
26 Vernon's Texas Civil Statutes), is amended to read as follows:

27 Sec. 11.03. INVESTMENT POLICY. (a) The board of trustees



1 shall adopt and maintain a written investment policy regarding the  
2 investment of fund assets.

3 (b) The board of trustees may not adopt an amendment that  
4 amends the investment policy adopted under this section unless the  
5 proposed amendment is approved by the affirmative vote of a  
6 majority of the members of the board at not fewer than three regular  
7 meetings of the board [~~LIMITATIONS ON INVESTMENTS. The fund may not~~  
8 ~~own more than five percent of the voting stock of any one~~  
9 ~~corporation. Under an investment measure at market:~~

10 [~~(1) total fixed-income investments should not~~  
11 ~~represent less than 30 percent of the value of the investment~~  
12 ~~portfolio,~~

13 [~~(2) total investments in common stocks should not~~  
14 ~~represent more than 70 percent of the value of the investment~~  
15 ~~portfolio,~~

16 [~~(3) total investments in common stocks and bonds of~~  
17 ~~foreign corporations may not represent more than 20 percent of the~~  
18 ~~value of the investment portfolio, and~~

19 [~~(4) total investments in any one corporation may not~~  
20 ~~represent more than five percent of the value of the investment~~  
21 ~~portfolio].~~

22 SECTION 9. Sections 9.04(c) and (d), Chapter 183 (S.B.  
23 598), Acts of the 64th Legislature, Regular Session, 1975 (Article  
24 6243e.1, Vernon's Texas Civil Statutes), are repealed.

25 SECTION 10. As soon as practicable after the effective date  
26 of this Act, the board of trustees of the firefighters relief and  
27 retirement fund shall adopt the written investment policy required

H.B. No. 2829

1 by Section 11.03, Chapter 183 (S.B. 598), Acts of the 64th  
2 Legislature, Regular Session, 1975 (Article 6243e.1, Vernon's  
3 Texas Civil Statutes), as amended by this Act.

4 SECTION 11. This Act takes effect September 1, 2009.