

1-1 By: Rodriguez (Senate Sponsor - Watson) H.B. No. 2829
1-2 (In the Senate - Received from the House April 29, 2009;
1-3 May 1, 2009, read first time and referred to Committee on State
1-4 Affairs; May 12, 2009, reported favorably by the following vote:
1-5 Yeas 9, Nays 0; May 12, 2009, sent to printer.)

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

1-8 relating to participation in and benefits and administration of
1-9 retirement systems for firefighters in certain municipalities.

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

1-11 SECTION 1. Section 1.02, Chapter 183 (S.B. 598), Acts of the
1-12 64th Legislature, Regular Session, 1975 (Article 6243e.1, Vernon's
1-13 Texas Civil Statutes), is amended by adding Subdivision (13) to
1-14 read as follows:

1-15 (13) "Spouse" means an individual to whom a member is
1-16 legally married under Subtitle A, Title 1, Family Code, or a
1-17 comparable law of another jurisdiction, provided that, in the case
1-18 of an informal marriage in this state, the marriage must be
1-19 evidenced by a declaration of informal marriage recorded in
1-20 accordance with Subchapter E, Chapter 2, Family Code.

1-21 SECTION 2. Section 2.03(c), Chapter 183 (S.B. 598), Acts of
1-22 the 64th Legislature, Regular Session, 1975 (Article 6243e.1,
1-23 Vernon's Texas Civil Statutes), is amended to read as follows:

1-24 (c) Each election is by secret written ballot on a date the
1-25 board of trustees determines. Only persons who have been nominated
1-26 may be listed on the written ballot. Nominations may be made in
1-27 person, by mail, or by telephone to the office of the fund and must
1-28 be received between September ~~October~~ 1 and September ~~October~~
1-29 15.

1-30 SECTION 3. Section 2.11, Chapter 183 (S.B. 598), Acts of the
1-31 64th Legislature, Regular Session, 1975 (Article 6243e.1, Vernon's
1-32 Texas Civil Statutes), is amended to read as follows:

1-33 Sec. 2.11. RULEMAKING. The board of trustees shall adopt
1-34 rules and perform reasonable activities it considers necessary or
1-35 desirable for the efficient administration of the fund and to
1-36 maintain the qualified status of the fund under Section 401(a) of
1-37 the Internal Revenue Code.

1-38 SECTION 4. Article 2, Chapter 183 (S.B. 598), Acts of the
1-39 64th Legislature, Regular Session, 1975 (Article 6243e.1, Vernon's
1-40 Texas Civil Statutes), is amended by adding Section 2.13 to read as
1-41 follows:

1-42 Sec. 2.13. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS,
1-43 RETIREEES, ANNUITANTS, OR BENEFICIARIES. (a) Information contained
1-44 in records in the custody of the fund concerning an individual
1-45 member, retiree, annuitant, or beneficiary is confidential under
1-46 Section 552.101, Government Code, and may not be disclosed in a form
1-47 identifiable with a specific individual unless:

1-48 (1) the information is disclosed to:

1-49 (A) the individual or the individual's attorney,
1-50 guardian, executor, administrator, conservator, or other person
1-51 who the administrator of the fund determines is acting in the
1-52 interest of the individual or the individual's estate;

1-53 (B) a spouse or former spouse of the individual
1-54 after the administrator of the fund determines that the information
1-55 is relevant to the spouse's or former spouse's interest in member
1-56 accounts, benefits, or other amounts payable by the fund;

1-57 (C) a governmental official or employee after the
1-58 administrator of the fund determines that disclosure of the
1-59 information requested is reasonably necessary to the performance of
1-60 the duties of the official or employee; or

1-61 (D) a person authorized by the individual in
1-62 writing to receive the information; or

1-63 (2) the information is disclosed pursuant to a
1-64 subpoena and the administrator of the fund determines that the

2-1 individual will have a reasonable opportunity to contest the
 2-2 subpoena.

2-3 (b) This section does not prevent the disclosure of the
 2-4 status or identity of an individual as a member, former member,
 2-5 retiree, deceased member or retiree, or beneficiary of the fund.

2-6 (c) A determination and disclosure under Subsection (a) may
 2-7 be made without notice to the individual member, retiree,
 2-8 annuitant, or beneficiary.

2-9 SECTION 5. Section 5.04, Chapter 183 (S.B. 598), Acts of the
 2-10 64th Legislature, Regular Session, 1975 (Article 6243e.1, Vernon's
 2-11 Texas Civil Statutes), is amended by amending Subsection (b) and
 2-12 adding Subsection (b-1) to read as follows:

2-13 (b) The three percent factor used in this section may be
 2-14 changed to some other percent if the change:

2-15 (1) is first approved by the board's actuary;

2-16 (2) is approved by the board of trustees;

2-17 (3) applies ~~only~~ to one or any combination of the
 2-18 following groups:

2-19 (A) firefighters who are employed on an active,
 2-20 full-time basis in the fire department at the time of the change;

2-21 (B) firefighters who begin service with the fire
 2-22 department after the change becomes effective; and

2-23 (C) members who retire under Section 5.06 of this
 2-24 Act after the change becomes effective; and

2-25 (4) does not reduce a member's benefit for service
 2-26 credit accumulated before the date of the change.

2-27 (b-1) In determining whether to approve an increase in the
 2-28 factor under Subsection (b) of this section, the board's actuary
 2-29 shall take into consideration whether the fund has reserves
 2-30 sufficient to enable the payment of a cost-of-living adjustment
 2-31 under Section 9.04(a) of this Act to all current members and
 2-32 survivors at a level that is equal to the average percentage
 2-33 increase in the Consumer Price Index for All Urban Consumers as
 2-34 determined by the United States Department of Labor for the 10
 2-35 annual periods preceding the proposed effective date of the change.

2-36 SECTION 6. Section 7.02, Chapter 183 (S.B. 598), Acts of the
 2-37 64th Legislature, Regular Session, 1975 (Article 6243e.1, Vernon's
 2-38 Texas Civil Statutes), is amended to read as follows:

2-39 Sec. 7.02. SURVIVING SPOUSE OF RETIREE. (a) On the death of
 2-40 a retiree, the retiree's surviving spouse is entitled to receive an
 2-41 immediate monthly benefit from the fund of 75 percent of the
 2-42 retirement benefit that was being paid to the retiree if the spouse:

2-43 (1) was married to the retiree at the time of the
 2-44 retiree's retirement; or

2-45 (2) married the retiree after the retiree's retirement
 2-46 and was married to the retiree for at least 24 consecutive months.

2-47 (b) For purposes of Subsection (a)(1) of this section, with
 2-48 respect to an informal marriage established in this state, a
 2-49 surviving spouse is considered married to a retiree as of the date a
 2-50 declaration of informal marriage was recorded in accordance with
 2-51 Subchapter E, Chapter 2, Family Code.

2-52 SECTION 7. Section 9.04, Chapter 183 (S.B. 598), Acts of the
 2-53 64th Legislature, Regular Session, 1975 (Article 6243e.1, Vernon's
 2-54 Texas Civil Statutes), is amended by amending Subsections (a) and
 2-55 (b) and adding Subsections (a-1), (a-2), (a-3), (a-4), and (b-1) to
 2-56 read as follows:

2-57 (a) Subject to this section and except ~~Except~~ as provided
 2-58 by Section 5.05 of this Act, a person receiving a retirement or
 2-59 survivor's benefit under this Act is entitled each calendar year to
 2-60 a ~~an annual~~ cost-of-living adjustment of that person's benefit
 2-61 calculated in accordance with this section.

2-62 (a-1) The annual cost-of-living adjustment under this
 2-63 section:

2-64 (1) is based on the collective adjustment amount
 2-65 calculated in accordance with Subsection (a-2) of this section and
 2-66 allocated among persons eligible for an adjustment under this
 2-67 section in a manner and in an amount determined by the board of
 2-68 trustees;

2-69 (2) may take effect at any time during a given calendar

3-1 year, as determined by the board of trustees; and
3-2 (3) may not reduce a person's benefit to an amount less
3-3 than the person received when the benefit first was paid to that
3-4 person.
3-5 (a-2) The collective adjustment amount described by
3-6 Subsection (a-1) of this section:
3-7 (1) is an amount equal to the actuarial value, as
3-8 determined by the board's actuary based on the interest and
3-9 mortality assumptions adopted by the board of trustees for the most
3-10 recent actuarial valuation of the fund, of the percentage [any]
3-11 increase in the Consumer Price Index for All Urban Consumers as
3-12 determined by the United States Department of Labor for the
3-13 applicable determination period immediately preceding the date the
3-14 cost-of-living adjustment is to take effect, multiplied by the
3-15 total amount of benefits payable in the month immediately preceding
3-16 the date an adjustment is to take effect to persons who are eligible
3-17 to receive an adjustment under this section; and
3-18 (2) if applicable:
3-19 (A) is reduced by an amount that the board's
3-20 actuary determines is necessary to maintain the financial stability
3-21 of the fund; or
3-22 (B) is increased in accordance with Subsection
3-23 (b) of this section.
3-24 (a-3) For purposes of Subsection (a-2) of this section, the
3-25 applicable determination period is the shorter of:
3-26 (1) 12 months; or
3-27 (2) the period since the last adjustment [increase in
3-28 benefits] under this section.
3-29 (a-4) In determining whether to reduce the collective
3-30 adjustment amount under Subsection (a-2) of this section, the
3-31 board's actuary may not take into consideration the cost of future
3-32 adjustments under this section.
3-33 (b) The board of trustees may increase the collective [If
3-34 an] adjustment amount under Subsection (a-2) [(a)] of this section
3-35 if:
3-36 (1) [would exceed one percent of a person's benefit,
3-37 the portion of the adjustment that exceeds one percent of the
3-38 benefit may not be made under this section unless] the board's
3-39 actuary has advised the board of trustees that the increase
3-40 [adjustment] would not impair the financial stability of the fund;
3-41 and
3-42 (2) the increase [adjustment] has been approved by the
3-43 affirmative vote of a majority of the board of trustees. [If an
3-44 adjustment under Subsection (a) of this section would be one
3-45 percent or less of a person's benefit, the adjustment may not be
3-46 made under this section unless the board's actuary has advised the
3-47 board of trustees that the adjustment would not impair the
3-48 financial stability of the fund.]
3-49 (b-1) In determining whether an adjustment would impair the
3-50 financial stability of the fund under Subsection (b) of this
3-51 section, the board's actuary shall take into consideration the cost
3-52 of future adjustments under this section.
3-53 SECTION 8. Section 11.01, Chapter 183 (S.B. 598), Acts of
3-54 the 64th Legislature, Regular Session, 1975 (Article 6243e.1,
3-55 Vernon's Texas Civil Statutes), is amended to read as follows:
3-56 Sec. 11.01. INVESTMENTS. The board of trustees in its sole
3-57 discretion may invest, reinvest, or change the assets of the fund.
3-58 The board of trustees shall invest the funds in whatever
3-59 instruments or investments the board considers prudent. In making
3-60 investments for the fund, the board of trustees shall discharge its
3-61 duties with the care, skill, prudence, and diligence under the
3-62 circumstances then prevailing that a prudent person acting in a
3-63 similar capacity and familiar with such matters would use in the
3-64 conduct of an enterprise of a similar character and with similar
3-65 aims. [PERMITTED INVESTMENTS. When the board of trustees
3-66 determines that there is in the fund a surplus exceeding the
3-67 reasonable, safe amount necessary to take care of the current
3-68 demands on the fund, the surplus, or so much of it as the board of
3-69 trustees considers prudent, may be invested in:

4-1 ~~[(1) direct obligations of or obligations the~~
 4-2 ~~principal and interest of which are guaranteed by the United States~~
 4-3 ~~or its agencies or instrumentalities,~~

4-4 ~~[(2) short-term investment funds, mutual funds, or~~
 4-5 ~~their equivalent that are rated as investment quality or higher by a~~
 4-6 ~~nationally recognized investment rating firm,~~

4-7 ~~[(3) fully collateralized or direct repurchase~~
 4-8 ~~agreements, including direct and reverse security repurchase~~
 4-9 ~~agreements and security lending agreements that:~~

4-10 ~~[(A) have a defined termination date,~~

4-11 ~~[(B) are secured by obligations described by this~~
 4-12 ~~section or by cash; and~~

4-13 ~~[(C) are pledged with a third party selected or~~
 4-14 ~~approved by a majority vote of the board of trustees,~~

4-15 ~~[(4) corporate bonds, including convertible bonds,~~
 4-16 ~~collateralized mortgage obligations, and asset-backed securities,~~
 4-17 ~~rated as investment quality or higher by a nationally recognized~~
 4-18 ~~investment rating firm,~~

4-19 ~~[(5) common stocks, preferred stocks, and convertible~~
 4-20 ~~preferred stocks of companies incorporated in the United States and~~
 4-21 ~~foreign stocks that are designated in United States dollars and~~
 4-22 ~~that are registered with the Securities and Exchange Commission and~~
 4-23 ~~listed on a United States exchange or by the National Association of~~
 4-24 ~~Securities Dealers Automated Quotations,~~

4-25 ~~[(6) foreign equity and fixed income investments,~~

4-26 ~~[(7) mutual funds, common funds, and their equivalents~~
 4-27 ~~that contain only items listed in Subdivisions (1)-(6) of this~~
 4-28 ~~section; and~~

4-29 ~~[(8) convertible stocks and bonds recognized as~~
 4-30 ~~investment quality or higher by a nationally recognized investment~~
 4-31 ~~rating firm or by the investment manager.]~~

4-32 SECTION 9. Section 11.03, Chapter 183 (S.B. 598), Acts of
 4-33 the 64th Legislature, Regular Session, 1975 (Article 6243e.1,
 4-34 Vernon's Texas Civil Statutes), is amended to read as follows:

4-35 Sec. 11.03. INVESTMENT POLICY. (a) The board of trustees
 4-36 shall adopt and maintain a written investment policy regarding the
 4-37 investment of fund assets.

4-38 (b) The board of trustees may not adopt an amendment to the
 4-39 investment policy adopted under this section unless the proposed
 4-40 amendment is approved by the affirmative vote of a majority of the
 4-41 members of the board at not fewer than three regular meetings of the
 4-42 board. [LIMITATIONS ON INVESTMENTS. The fund may not own more than
 4-43 five percent of the voting stock of any one corporation. Under an
 4-44 investment measure at market:

4-45 ~~[(1) total fixed-income investments should not~~
 4-46 ~~represent less than 30 percent of the value of the investment~~
 4-47 ~~portfolio,~~

4-48 ~~[(2) total investments in common stocks should not~~
 4-49 ~~represent more than 70 percent of the value of the investment~~
 4-50 ~~portfolio,~~

4-51 ~~[(3) total investments in common stocks and bonds of~~
 4-52 ~~foreign corporations may not represent more than 20 percent of the~~
 4-53 ~~value of the investment portfolio; and~~

4-54 ~~[(4) total investments in any one corporation may not~~
 4-55 ~~represent more than five percent of the value of the investment~~
 4-56 ~~portfolio.]~~

4-57 SECTION 10. Sections 9.04(c) and (d), Chapter 183 (S.B.
 4-58 598), Acts of the 64th Legislature, Regular Session, 1975 (Article
 4-59 6243e.1, Vernon's Texas Civil Statutes), are repealed.

4-60 SECTION 11. As soon as practicable after the effective date
 4-61 of this Act, the board of trustees of the firefighters relief and
 4-62 retirement fund shall adopt the written investment policy required
 4-63 by Section 11.03, Chapter 183 (S.B. 598), Acts of the 64th
 4-64 Legislature, Regular Session, 1975 (Article 6243e.1, Vernon's
 4-65 Texas Civil Statutes), as amended by this Act.

4-66 SECTION 12. This Act takes effect September 1, 2009.

4-67 * * * * *