

By: Gervin-Hawkins

H.B. No. 3188

Substitute the following for H.B. No. 3188:

By: Gutierrez

C.S.H.B. No. 3188

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the retirement system in certain municipalities for
3 firefighters and police officers.

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

5 SECTION 1. Sections 1.02(4-a), (5), (7), and (17), Chapter
6 824 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993
7 (Article 6243o, Vernon's Texas Civil Statutes), are amended to read
8 as follows:

9 (4-a) "Catastrophic injury" means, except as provided
10 by Section 5.03(a-2) of this Act, irreparable physical bodily
11 injury sustained by a member as a direct and immediate result of the
12 member's engaging in an activity that:

13 (A) constitutes the performance of the member's
14 duties as a firefighter or police officer;

15 (B) involves an extraordinary degree of risk of
16 bodily injury or death; and

17 (C) does not result in death.

18 (5) "Code," unless the context requires otherwise,
19 means the United States Internal Revenue Code of 1986 or a successor
20 statute.

21 (7) "Dependent child" means:

22 (A) a person who is less than 18 years of age and
23 is a natural or adopted child of a deceased member or deceased
24 retiree; or

1 (B) a person:

2 (i) who is at least 18 years of age;

3 (ii) who is mentally or physically disabled
4 to the extent that the person is not capable of being
5 self-supporting; and

6 (iii) whose natural or adoptive parent is a
7 deceased member or deceased retiree~~[, provided that, for the year~~
8 ~~immediately preceding the death of the member or retiree, the~~
9 ~~deceased member or retiree claimed the person as a dependent on the~~
10 ~~member's or retiree's federal income tax return]~~.

11 (17) "Total salary" means all salary of a member:

12 (A) including:

13 (i) amounts picked up by the municipality
14 under Section 4.04(b) of this Act; and

15 (ii) amounts that would be included in
16 salary but for an election under Section 125(d), 132(f)(4), 401(k),
17 402(e)(3), 402(h)(1)(B), or 457(b) of the code; and

18 (B) excluding~~[, except]~~:

19 (i) [(A)] overtime pay, field training
20 officer's pay, bomb squad pay, SWAT team pay, K-9 pay, and hostage
21 team pay; and

22 (ii) [(B)] pay for unused accrued vacation
23 and sick leave, holiday pay, compensatory time pay, and bonus days
24 leave, or any similar items of compensation that may be paid in the
25 future.

26 SECTION 2. Section 2.02, Chapter 824 (S.B. 817), Acts of the
27 73rd Legislature, Regular Session, 1993 (Article 6243o, Vernon's

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

3 (a) The mayor of a municipality to which this Act applies,
4 or a qualified mayoral designee, serves on the board for the term of
5 the mayor's office, provided [except] that, if the mayor appoints a
6 qualified mayoral designee, the mayor may replace or remove that
7 qualified mayoral designee at the mayor's discretion, and the term
8 of the mayor or the mayor's qualified mayoral designee, as
9 applicable, on the board expires on the date the mayor ceases to be
10 mayor of the municipality for any reason. An individual designated
11 by the mayor to serve on the board under this subsection may only
12 serve on the board while the individual is a qualified mayoral
13 designee.

14 (a-1) The mayor of a municipality shall fill a vacancy on
15 the board under Section 2.01(a) of this Act in the manner provided
16 by that section.

17 (b) The two members of the municipal governing body serve on
18 the board for the term of the office to which they are elected or
19 appointed, provided that the term of the member on the board expires
20 on the day the member ceases to be a member of the municipal
21 governing body for any reason.

22 (b-1) The governing body of a municipality shall fill a
23 vacancy on the board under Section 2.01(b) of this Act in the manner
24 provided by that section.

25 SECTION 3. Section 3.01(a), Chapter 824 (S.B. 817), Acts of
26 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
27 Vernon's Texas Civil Statutes), is amended to read as follows:

1 (a) The board has complete authority and power to:

2 (1) administer the fund for the exclusive benefit of
3 all members, retirees, and beneficiaries;

4 (2) disburse benefits or otherwise order payments from
5 the fund as required by this Act;

6 (3) control the fund independently;

7 (4) conduct all litigation on behalf of the fund; and

8 (5) purchase with fund assets from one or more
9 insurers licensed to do business in this state one or more insurance
10 policies that provide for reimbursement of the fund and any
11 trustee, officer, or employee of the board for liability imposed or
12 damages because of an alleged act, error, or omission committed in
13 the trustee's, officer's, or employee's capacity as a fiduciary
14 officer or employee of the fund and for costs and expenses incurred
15 as a trustee, officer, or employee in defense of a claim for an
16 alleged act, error, or omission, as long as the insurance policy
17 does not provide for reimbursement of a trustee, officer, or
18 employee for liability imposed or expenses incurred because of the
19 trustee's, officer's, or employee's personal dishonesty, fraud,
20 lack of good faith, or intentional failure to act prudently.

21 SECTION 4. The heading to Section 3.03, Chapter 824 (S.B.
22 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article
23 [6243o](#), Vernon's Texas Civil Statutes), is amended to read as
24 follows:

25 Sec. 3.03. [~~ORDERS FOR~~] DISBURSEMENTS OF BENEFITS.

26 SECTION 5. Section 3.03(b), Chapter 824 (S.B. 817), Acts of
27 the 73rd Legislature, Regular Session, 1993 (Article [6243o](#),

1 Vernon's Texas Civil Statutes), is amended to read as follows:

2 (b) Disbursements of benefits may not be made without a
3 record vote of the board.

4 SECTION 6. Section 4.03, Chapter 824 (S.B. 817), Acts of the
5 73rd Legislature, Regular Session, 1993 (Article ~~6243o~~, Vernon's
6 Texas Civil Statutes), is amended by amending Subsections (b), (c),
7 and (f) and adding Subsections (f-1) and (i) to read as follows:

8 (b) Subject to Subsections (c) and (e) of this section, a
9 ~~[Not later than the 90th day after the date of the member's~~
10 ~~reinstatement to an active status in the fire or police department,~~
11 ~~the]~~ member may restore credit not established during the period
12 the member was engaged in active service in any uniformed service by
13 paying ~~[must file with the secretary of the board a written~~
14 ~~statement of intent to pay]~~ into the fund an amount equal to what
15 the member would have paid during that period if the member had
16 remained on active status in the fire or police department ~~[during~~
17 ~~the period of the member's absence in the uniformed service]~~.

18 (c) The member must make the payment described by Subsection
19 (b) of this section in full within an amount of time after the
20 member's return to active status in the fire or police department
21 that is equal to three times the amount of time the member was
22 engaged in active service with the uniformed service ~~[absent]~~,
23 except that the maximum period for payment may not exceed five
24 years.

25 (f) If a ~~[person who became a]~~ member ~~[before October 1,~~
26 ~~1997,~~] does not make the payment authorized ~~[required]~~ under
27 Subsection (b) ~~[(c)]~~ of this section within the ~~[required amount~~

1 ~~of~~] time prescribed by Subsection (c) of this section and the member
2 would otherwise be eligible for credit under federal law, the
3 member may receive credit for the uniformed service if:

4 (1) the board determines that the member had good
5 cause for not complying with Subsection (b) or (c) of this section;
6 and

7 (2) the member ~~also~~ pays interest, compounded
8 annually, on the then current rate of a member's contribution from
9 the date the payment was required to the date the payment was made.

10 (f-1) The board shall set the rate of interest for purposes
11 of Subsection (f)(2) of this section.

12 (i) The survivors of a member of the fund who dies while
13 performing qualified military service, as defined in Section 414(u)
14 of the code, are entitled to any additional benefits, other than
15 benefit accruals relating to the period of qualified military
16 service, that would have been provided if the member had returned to
17 active status in the fire or police department and then terminated
18 employment as the result of death.

19 SECTION 7. Section 5.03, Chapter 824 (S.B. 817), Acts of the
20 73rd Legislature, Regular Session, 1993 (Article 6243o, Vernon's
21 Texas Civil Statutes), is amended by amending Subsections (a),
22 (a-1), (c), and (d) and adding Subsection (a-3) to read as follows:

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

27 (1) makes a written application for regular disability

1 retirement with the board;

2 (2) establishes to the satisfaction of the board that
3 the member is permanently disabled through injury or disease so as
4 to be unable to perform the duties of any available position in the
5 department and has been off active duty for a continuous period of
6 not less than 30 days before the date of the application for
7 disability retirement;

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

10 (4) is not disqualified from receiving a disability
11 retirement annuity under [~~on indefinite suspension as described in~~]
12 Subsection (d) of this section; and

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

16 (a-1) An active member of the fund is eligible to retire and
17 receive a catastrophic injury disability retirement annuity only if
18 the member:

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

21 (2) establishes to the satisfaction of the board that
22 the member is permanently so disabled as a result of a catastrophic
23 injury as to:

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

27 (B) have, as a result of the lack of third-party

1 employment or self-employment, an annual income less than the
2 poverty level for one person in the 48 contiguous states of the
3 United States as provided under the poverty guidelines published
4 from time to time by the United States Department of Health and
5 Human Services, or similar guidelines selected by the board;

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

8 (4) is not disqualified from receiving a disability
9 retirement annuity under [~~on indefinite suspension as described in~~]
10 Subsection (d) of this section; and

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

14 (a-3) In making a determination under this section, the
15 board may consider or require any evidence the board considers
16 necessary or appropriate to make the determination.

17 (c) A [~~Except as provided by Subsection (d) of this section,~~
18 ~~a]~~ member [~~of the fund~~] who is on suspension for a specific period,
19 including a member whose indefinite suspension is reversed or
20 modified to a suspension for a specific period, and who becomes
21 disabled as a result of an injury sustained or disease contracted
22 while the member is on suspension is eligible for a disability
23 retirement annuity under Subsection (a) or (a-1) of this section,
24 as applicable, only if the suspended member makes up each
25 [~~deducted~~] contribution to the fund not made by the member [~~lost~~] by
26 reason of the suspension not later than the 30th day after the later
27 of the termination date of the suspension or the date the suspension

1 becomes final in accordance with Section 6.105 of this Act
2 ~~[exhaustion of any appeal with respect to the suspension]~~. A
3 municipality to which this Act applies shall double-match all
4 contributions made by a member under this subsection.

5 (d) A member of the fund who is on indefinite suspension,
6 excluding an indefinite suspension reversed or modified to be a
7 suspension for a specific period, that becomes ~~[is not eligible for~~
8 ~~a disability retirement annuity until the]~~ final in accordance with
9 Section 6.105 of this Act or who is terminated by the municipality,
10 ~~[determination of the suspension and all appeals of that~~
11 ~~determination are exhausted. A member of the fund who is on~~
12 ~~indefinite suspension]~~ is not entitled to a disability retirement
13 annuity ~~[if the member is finally discharged]~~. ~~[A member of the~~
14 ~~fund who is on indefinite suspension but who is restored to duty or~~
15 ~~who is given a suspension for a specific period is eligible for a~~
16 ~~disability retirement annuity as provided by Subsection (a) of this~~
17 ~~section.]~~

18 SECTION 8. Sections 5.04(a) and (a-1), Chapter 824 (S.B.
19 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article
20 [62430](#), Vernon's Texas Civil Statutes), are amended to read as
21 follows:

22 (a) A member who is eligible to retire and receive a
23 disability retirement annuity under Section 5.03(a) of this Act is
24 entitled to receive an annuity from the fund equal to:

25 (1) 50 percent of the member's average total salary, if
26 the member has served three years or more before the date of
27 retirement;

1 (2) 50 percent of the member's average monthly total
2 salary as of the date of retirement multiplied by 12, if the member
3 has served at least two months and less than three years before the
4 date of retirement; or

5 (3) 50 percent of the member's average daily total
6 salary as of the date of retirement multiplied by 360, if the member
7 has served less than two months before the date of retirement.

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

12 (1) 87.5 percent of the member's average total salary,
13 if the member has served three years or more before the date of
14 retirement;

15 (2) 87.5 percent of the member's average monthly total
16 salary as of the date of retirement multiplied by 12, if the member
17 has served at least two months and less than three years before the
18 date of retirement; or

19 (3) 87.5 percent of the member's average daily total
20 salary as of the date of retirement multiplied by 360, if the member
21 has served less than two months before the date of retirement.

22 SECTION 9. Sections 5.05(a-1), (a-3), (c), and (c-1),
23 Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular
24 Session, 1993 (Article 6243o, Vernon's Texas Civil Statutes), are
25 amended to read as follows:

26 (a-1) A disability retiree who is awarded a catastrophic
27 injury disability annuity under Section 5.03(a-1) of this Act

1 shall, if required by the board, undergo a medical examination by
2 any reputable physician or physicians selected by the board:

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

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

8 (a-3) Subject to Subsections (b) and [Subsection] (c) of
9 this section, based on an examination under Subsections (a), (a-1),
10 or (a-2) of this section, the board shall determine whether the
11 disability retirement annuity shall be continued, decreased,
12 restored to the original amount if it had been decreased, or
13 discontinued.

14 (c) For those retired because of disability on or after
15 August 30, 1971, the disability retirement annuity may not, except
16 in the case of discontinuance, be reduced to an amount that is less
17 than the product of:

18 (1) 2.25 percent multiplied by the number of years
19 that the retiree served in the department and contributed a portion
20 of salary as a member of the fund multiplied by the retiree's
21 average total salary, if the retiree served three years or more
22 before the date of retirement;

23 (2) 2.25 percent multiplied by the number of years
24 that the retiree served in the department and contributed a portion
25 of salary as a member of the fund multiplied by the retiree's
26 average monthly total salary as of the date of retirement
27 multiplied by 12, if the retiree served at least two months and less

1 than three years before the date of retirement; or

2 (3) 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 daily total salary as of the date of retirement multiplied
6 by 360, if the member has served less than two months before the
7 date of retirement.

8 (c-1) In making the computation under Subsections (b) and
9 ~~[Subsection]~~ (c) of this section, all fractional years shall be
10 prorated based on full months served in the department as a
11 contributing member of the fund before the date of retirement.

12 SECTION 10. Section 5.07, Chapter 824 (S.B. 817), Acts of
13 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
14 Vernon's Texas Civil Statutes), is amended by amending Subsection
15 (b) and adding Subsection (b-1) to read as follows:

16 (b) Subject to Subsection (b-1) of this section, if ~~[if]~~ the
17 retiree received income from other employment, including
18 self-employment, during the preceding year, the board may reduce
19 the retiree's disability retirement annuity by the amount of \$1 for
20 each month for each \$2 of income earned by the retiree from the
21 other employment during each month of the previous year, except
22 that the disability retirement annuity may not be decreased below
23 the amount determined under Section 5.05(c) of this Act.

24 (b-1) The board may restore a disability retirement annuity
25 that has been reduced under Subsection (b) of this section. The
26 amount of the restored annuity must be the same as the amount of the
27 annuity before the reduction plus any applicable cost-of-living

1 increases under Section 5.09 of this Act that occurred during the
2 period the annuity was reduced. This subsection does not require
3 the board to allow or deny cost-of-living increases in any other
4 circumstances.

5 SECTION 11. Section 5.10, Chapter 824 (S.B. 817), Acts of
6 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
7 Vernon's Texas Civil Statutes), is amended by amending Subsections
8 (b), (c), (d), (f), and (j) and adding Subsections (b-1) and (d-1)
9 to read as follows:

10 (b) A distributee may elect, at the time and in the manner
11 prescribed by the board, to have any portion of an eligible rollover
12 distribution paid directly to an eligible retirement plan specified
13 by the distributee in a direct rollover. [~~Any member or beneficiary~~
14 ~~who is entitled to receive any distribution that is an eligible~~
15 ~~rollover distribution as defined by Section 402(c)(4) of the code~~
16 ~~is entitled to have that distribution transferred directly to~~
17 ~~another eligible retirement plan of the member's or beneficiary's~~
18 ~~choice on providing direction to the fund regarding that transfer~~
19 ~~in accordance with procedures established by the board.]~~

20 (b-1) For purposes of this subsection and Subsection (b) of
21 this section:

22 (1) "Direct rollover" means a payment by the fund to
23 the eligible retirement plan specified by a distributee.

24 (2) "Distributee" means a member or former member.
25 The term includes a member's or former member's surviving spouse or
26 designated beneficiary and a member's or former member's spouse or
27 former spouse who is the alternate payee under a qualified domestic

1 relations order, as defined by Section 414(p) of the code, with
2 regard to the interest of the spouse or former spouse.

3 (3) "Eligible retirement plan" means:

4 (A) an individual retirement account described
5 by Section 408(a) of the code;

6 (B) an individual retirement annuity described
7 by Section 408(b) of the code;

8 (C) a qualified annuity plan described by Section
9 403(a) of the code;

10 (D) a qualified trust described by Section 401(a)
11 of the code;

12 (E) an eligible deferred compensation plan
13 described by Section 457(b) of the code that is maintained by an
14 eligible employer described by Section 457(e)(1)(A) of the code;

15 (F) an annuity contract described by Section
16 403(b) of the code that accepts the distributee's eligible rollover
17 distribution; or

18 (G) in the case of an eligible rollover
19 distribution to a designated beneficiary who is not the surviving
20 spouse, or the spouse or former spouse under a qualified domestic
21 relations order, an individual retirement account or individual
22 retirement annuity only.

23 (4) "Eligible rollover distribution" means a
24 distribution of all or any portion of the balance to the credit of
25 the distributee. The term does not include:

26 (A) a distribution that is one of a series of
27 substantially equal periodic payments, paid not less frequently

1 than once a year, made over the life or life expectancy of the
2 distributee or the joint lives or joint life expectancies of the
3 distributee and the distributee's designated beneficiary;

4 (B) a series of payments for a specified period
5 of 10 years or more;

6 (C) a distribution to the extent the distribution
7 is required under Section 401(a)(9) of the code; or

8 (D) the portion of a distribution that is not
9 includable in gross income, unless the distributee directs that the
10 eligible rollover distribution be transferred directly to a
11 qualified trust that is part of a defined contribution plan that
12 agrees to separately account for the portion that is includable in
13 gross income and the portion that is not or to an individual
14 retirement account or individual annuity.

15 (c) The total salary taken into account for any purpose
16 under this Act [~~for any member of the fund~~] may not exceed the
17 annual compensation limitation under Section 401(a)(17) of the
18 code, effective January 1, 2017, which is \$405,000 [~~\$200,000 per~~
19 ~~year~~] for an eligible member [~~participant~~] or \$270,000 [~~\$150,000~~
20 ~~per year~~] for an ineligible member [~~participant~~]. For purposes of
21 this subsection, an eligible member is any employee who first
22 became a member before 1996 and an ineligible member is any other
23 member. The [~~These~~] dollar limits shall be [~~periodically~~] adjusted
24 annually for cost-of-living increases as provided by Section
25 401(a)(17) of the code [~~in accordance with guidelines provided by~~
26 ~~the United States secretary of the treasury. For purposes of this~~
27 ~~subsection, an eligible participant is any person who first became~~

1 ~~a member before 1996, and an ineligible participant is any member~~
2 ~~who is not an eligible participant].~~

3 (d) Accrued benefits under this Act become 100 percent
4 vested for a member on the earlier of:

5 (1) the date the member attains normal retirement age
6 ~~[has completed 20 years of service];~~

7 (2) the earlier termination or partial termination of
8 the pension plan created by this Act, if it affects the member; or

9 (3) the complete discontinuance of contributions by
10 the municipality to the fund.

11 (d-1) For purposes of Subsection (d)(1), "normal retirement
12 age" means the age at which a member is entitled to receive a
13 service retirement benefit without reduction because of age.

14 (f) Distribution of benefits must:

15 (1) begin not later than April 1 of the year following
16 the later of the calendar year in ~~[during]~~ which the member :

17 (A) becomes 70-1/2 years of age; or

18 (B) retires; and

19 (2) [must] otherwise conform to Section 401(a)(9) of
20 the code and the regulations adopted under that section of the code,
21 including regulations governing the incidental death benefit
22 distribution requirements.

23 (j) Notwithstanding any other provision of this Act, the
24 limitations on benefits imposed by Section 415 of the code and
25 Subsection (a) of this section must be adjusted each year to the
26 extent permitted by cost-of-living increases announced by the
27 secretary of the treasury under Section 415(d) of the code and

1 applicable law. A cost-of-living increase described by this
2 subsection applies to members who have terminated employment,
3 including members who have begun receiving benefits before the
4 effective date of the increase, and any benefits previously denied.
5 Benefits paid to make up for benefits previously denied are
6 considered the delayed payment of benefits earned before retirement
7 and not extra compensation earned after retirement. [To the extent
8 permitted by law, the board may adjust the benefits of retired
9 members and beneficiaries by increasing any retirement benefit that
10 was reduced because of Section 415 of the code. If Section 415 of
11 the code is amended to permit the payment of amounts previously
12 precluded under Section 415 of the code, the board may adjust the
13 benefits of retired members and beneficiaries, including the
14 restoration of benefits previously denied. Benefits paid under
15 this subsection are not considered as extra compensation earned
16 after retirement but as the delayed payment of benefits earned
17 before retirement.]

18 SECTION 12. Section 6.01(b), Chapter 824 (S.B. 817), Acts
19 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,
20 Vernon's Texas Civil Statutes), is amended to read as follows:

21 (b) Subject to the applicable provisions of this Act,
22 including Section 6.02(j) of this Act, a [A] dependent child is
23 entitled to receive benefits based on the service of any parent who
24 is a member of the fund.

25 SECTION 13. Sections 6.02(d-2), (g), and (j), Chapter 824
26 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993
27 (Article 6243o, Vernon's Texas Civil Statutes), are amended to read

1 as follows:

2 (d-2) If, at the time a death benefit annuity becomes
3 payable under Subsection (a) or (c) of this section, a [~~deceased~~
4 ~~member or~~] retiree leaves a surviving spouse who is not entitled to
5 an annuity on the date of the retiree's death under Subsection (g-1)
6 of this section as the result of Subsection (g-3) of this section
7 and the deceased retiree has one or more dependent children, the
8 dependent child or children shall be awarded 100 percent of the
9 death benefit annuity until the annuity to the surviving spouse
10 becomes payable [~~effective~~] under Subsection (g-3) of this section.

11 (g) A child who is adopted after the date of retirement of
12 the member is not entitled to a death benefit annuity under this
13 Act. A child who is born after the date of retirement of the member
14 is not entitled to a death benefit annuity under this Act unless the
15 retiree was married to the other parent of the child on the date of
16 retirement. A surviving spouse of a retiree whose status as a
17 surviving spouse resulted from a marriage after the date of the
18 retirement of the retiree is entitled to receive only the benefits,
19 if any, provided under Subsection (g-1) of this section or Section
20 6.08 of this Act.

21 (j) A dependent child as defined by Section 1.02(7)(B) of
22 this Act has the same rights as a dependent child as defined by
23 Section 1.02(7)(A) of this Act, except that any death benefit
24 annuity paid under this section [~~subsection~~] to a dependent child
25 as defined by Section 1.02(7)(B) of this Act may, at the discretion
26 of the board, be reduced to the extent of any state pension or aid,
27 including Medicaid, or any state-funded assistance received by the

1 child, regardless of whether the funds were made available to the
2 state by the federal government. In no other instance under this Act
3 is a child entitled to any benefit after becoming 18 years of age.

4 SECTION 14. Section 6.03, Chapter 824 (S.B. 817), Acts of
5 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
6 Vernon's Texas Civil Statutes), is amended to read as follows:

7 Sec. 6.03. DEATH BENEFIT ANNUITY FOR SPOUSE AND CHILDREN OF
8 MEMBER KILLED IN LINE OF DUTY. (a) The death benefit annuity of a
9 surviving spouse and any dependent child of a member of the fund who
10 is killed in the line of duty is governed by this section.

11 (b) [~~The board shall consider the finding of a municipality~~
12 ~~to which this Act applies that a member was killed in the line of~~
13 ~~duty as a guideline for its determination in applying this~~
14 ~~section.~~] On an application for survivor's benefits by a surviving
15 spouse or dependent child, the fund shall pay the normal benefits
16 payable under Section 6.02 of this Act. When a benefit is payable
17 under this section, the death benefit annuity shall be recomputed,
18 applying Subsection (c) of this section, and any deficiency payment
19 shall be paid to the eligible beneficiaries.

20 (c) Notwithstanding the formulas for computing the total
21 amounts of annuities otherwise provided by this Act, if a member is
22 killed in the line of duty, the member's surviving spouse and
23 dependent children are entitled to a death benefit annuity equal
24 to:

25 (1) the total salary [of] the member received during
26 the 12-month period before the date of the member's death, if the
27 member served 12 months or more before the date of the member's

1 death;

2 (2) the average monthly total salary the member
3 received before the date of the member's death multiplied by 12, if
4 the member served at least two months and less than 12 months before
5 the date of the member's death; or

6 (3) the average daily total salary the member received
7 before the date of the member's death multiplied by 360, if the
8 member served less than two months before the date of the member's
9 death [~~at the time of death~~].

10 (d) The provisions of this Act [~~Rules provided by this~~
11 ~~section~~] relating to qualification and disqualification for and
12 apportionment of benefits apply to a death benefit annuity computed
13 under this section [~~subsection~~]. A death benefit annuity computed
14 under this section [~~subsection~~] is divided in the manner described
15 by Section 6.02 of this Act and is subject to the same
16 cost-of-living adjustments that apply to annuities [~~pensions~~] for
17 service retirement.

18 SECTION 15. Section 6.04, Chapter 824 (S.B. 817), Acts of
19 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
20 Vernon's Texas Civil Statutes), is amended to read as follows:

21 Sec. 6.04. EFFECT OF MARRIAGE ON [~~REMARRIAGE,~~] BENEFITS
22 [~~AFTER TERMINATION OF MARRIAGE~~]. (a) Except as provided by
23 Subsection (e) of this section, the [~~The~~] right of a surviving
24 spouse or dependent child to annuity payments under this Act is not
25 affected by the surviving spouse's marriage [~~remarriage~~] or
26 dependent child's marriage under either statutory or common law if
27 the marriage [~~or remarriage~~] takes place on or after October 1,

1 1995.

2 (b) This subsection applies to a surviving spouse or
3 dependent child whose marriage under either statutory or common law
4 took place before October 1, 1995, and resulted in a termination of
5 benefits under the law in effect at the time of the marriage.
6 Subject to Subsection (d) of this section and except as provided by
7 Subsection (e) of this section, if on [If after] October 1, 1995,
8 the surviving spouse or dependent child is unmarried or if after
9 October 1, 1995, there is a termination of the marriage
10 [remarriage] of a surviving spouse or [of the marriage of a]
11 dependent child, the surviving spouse or dependent child, as
12 applicable, [that person] is entitled, on application, to 100
13 percent of the annuity that was in effect on the date of the
14 termination of benefits, payable from the date of the termination
15 of the marriage. A surviving spouse or dependent child entitled to
16 an annuity under this subsection is also entitled to any applicable
17 cost-of-living increases under Section 5.09 of this Act that
18 occurred on or after the date the marriage terminated.

19 ~~[(c) A surviving spouse or dependent child who is unmarried~~
20 ~~but receiving reduced benefits because of a prior marriage that~~
21 ~~caused the benefits to be terminated is entitled to 100 percent of~~
22 ~~the annuity that was in effect on the original date of termination~~
23 ~~of benefits.]~~

24 (d) The benefit provided under Subsection [~~Subsections~~] (b)
25 [~~and (c)~~] of this section shall be provided prospectively beginning
26 October 1, 1995, and the surviving spouse or dependent child is not
27 entitled to receive any benefits or increases in benefits relating

1 to any period before October 1, 1995.

2 (e) A person must be living at the time of application to be
3 eligible for benefits under this section.

4 SECTION 16. Section 6.06, Chapter 824 (S.B. 817), Acts of
5 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
6 Vernon's Texas Civil Statutes), is amended to read as follows:

7 Sec. 6.06. COMMON-LAW MARRIAGES. Common-law marriages are
8 not recognized under this Act and benefits may not be conferred on
9 common-law spouses as beneficiaries unless a declaration of
10 informal marriage was made and recorded under Sections 2.402 and
11 2.404, Family Code, and their subsequent amendments, or any
12 successor statutes, before the member's death. The date the
13 declaration of informal marriage is recorded under Section 2.404,
14 Family Code, is the date of marriage for the purpose of determining
15 whether any benefit is to be awarded to a surviving common-law
16 spouse as a beneficiary under this Act.

17 SECTION 17. Section 6.09(b), Chapter 824 (S.B. 817), Acts
18 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,
19 Vernon's Texas Civil Statutes), is amended to read as follows:

20 (b) An application for benefits under Subsection (a) of this
21 section must be accompanied by a copy of the deceased member's or
22 retiree's tax return filed for the last year ending before the
23 member's or retiree's death or an explanation satisfactory to the
24 board of why the tax return cannot be provided. The board may, on
25 its own initiative, make a thorough investigation, determine the
26 facts as to the dependency with respect to an application for
27 benefits made under Subsection (a) of this section, and at any time,

1 on the request of any beneficiary or any contributor to the fund,
2 reopen any award made to any member or dependent of any member who
3 is receiving annuity payments under this section and discontinue
4 those payments as to all or any of them. [~~The findings of the board
5 under this section and all annuities granted under this section are
6 final on all parties unless set aside or revoked by a court of
7 competent jurisdiction.~~]

8 SECTION 18. Section 6.10, Chapter 824 (S.B. 817), Acts of
9 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
10 Vernon's Texas Civil Statutes), is amended to read as follows:

11 Sec. 6.10. SUSPENSION RIGHTS. (a) Except as provided by
12 Subsection (b) of this section, if [~~IF~~] a member dies who is on
13 [under] suspension at the time of the member's death, [~~including an~~
14 ~~indefinite suspension that has not become final,~~] the member's
15 beneficiary has [~~beneficiaries have~~] the same rights as the
16 beneficiaries of any other member under this Act.

17 (b) If a member dies who is on indefinite suspension that
18 has not become final as of the date of the member's death, the
19 member's beneficiary has the same rights as the beneficiaries of
20 any other member under this Act in accordance with Subsection (a) of
21 this section only if the member's beneficiary provides sufficient
22 evidence to the board to establish to the board's satisfaction
23 that:

24 (1) an administrative appeal of the indefinite
25 suspension to the municipality was being actively pursued at the
26 time of death; and

27 (2) the member had a reasonable chance of having the

1 indefinite suspension reversed or modified to be a suspension for a
2 specific period.

3 SECTION 19. Chapter 824 (S.B. 817), Acts of the 73rd
4 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
5 Civil Statutes), is amended by adding Section 6.105 to read as
6 follows:

7 Sec. 6.105. DATE SUSPENSION FINAL. For purposes of this
8 Act, an indefinite suspension or a suspension for a specific period
9 becomes final on the date:

10 (1) any administrative appeal of the suspension to the
11 municipality has been finally adjudicated by the municipality; or

12 (2) if no administrative appeal of the suspension is
13 made to the municipality, after the last day of the period for
14 initiating an administrative appeal has elapsed.

15 SECTION 20. Section 6.14(i), Chapter 824 (S.B. 817), Acts
16 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,
17 Vernon's Texas Civil Statutes), is amended to read as follows:

18 (i) If a surviving spouse elects to receive a lump-sum
19 payment under this section, the total death benefit annuity payable
20 ~~[to the surviving spouse]~~ under Section 6.02 of this Act is reduced
21 as provided by Subsection (j) of this section. The lump-sum
22 election does not affect the amount of a death benefit annuity
23 payable to a dependent child of a deceased member under Section 6.02
24 of this Act while a death benefit annuity is payable to the
25 surviving spouse.

26 SECTION 21. Chapter 824 (S.B. 817), Acts of the 73rd
27 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas

1 Civil Statutes), is amended by adding Section 6.15 to read as
2 follows:

3 Sec. 6.15. DENIAL OF BENEFITS; DEATH CAUSED BY SURVIVOR. If
4 a person is the principal or an accomplice in wilfully bringing
5 about the death of a member or beneficiary whose death would
6 otherwise result in a benefit or benefit increase to the person, the
7 person is not eligible for, or entitled to, that benefit or benefit
8 increase. The determination of the board that a person wilfully
9 brought about the death must be made during a meeting of the board
10 and be based on a preponderance of the evidence presented. A
11 determination by the board under this section is not controlled by
12 any other finding in any other forum, regardless of whether the
13 other forum considered the same or another standard of proof.

14 SECTION 22. Section 3.03(a), Chapter 824 (S.B. 817), Acts
15 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,
16 Vernon's Texas Civil Statutes), is repealed.

17 SECTION 23. This Act takes effect October 1, 2019.