

By: Gervin-Hawkins

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, Chapter 824 (S.B. 817), Acts of the
26 73rd Legislature, Regular Session, 1993 (Article [6243o](#), Vernon's
27 Texas Civil Statutes), is amended by amending Subsection (a) and

1 adding Subsection (k) to read as follows:

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

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

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

7 (3) control the fund independently;

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

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

22 (k) The board's determination of a fact, the board's
23 interpretation of this Act, and the board's determination with
24 respect to an annuity or other benefit under this Act are final and
25 binding on all members, retirees, beneficiaries, alternate payees,
26 and their respective heirs, personal representatives, successors,
27 and assignees.

1 SECTION 4. The heading to Section 3.03, Chapter 824 (S.B.
2 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article
3 6243o, Vernon's Texas Civil Statutes), is amended to read as
4 follows:

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

6 SECTION 5. Section 3.03(b), Chapter 824 (S.B. 817), Acts of
7 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
8 Vernon's Texas Civil Statutes), is amended to read as follows:

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

11 SECTION 6. Section 4.03, Chapter 824 (S.B. 817), Acts of the
12 73rd Legislature, Regular Session, 1993 (Article 6243o, Vernon's
13 Texas Civil Statutes), is amended by amending Subsections (b), (c),
14 and (f) and adding Subsections (f-1) and (i) to read as follows:

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

25 (c) The member must make the payment described by Subsection
26 (b) of this section in full within an amount of time after the
27 member's return to active status in the fire or police department

1 that is equal to three times the amount of time the member was
2 engaged in active service with the uniformed service ~~[absent]~~,
3 except that the maximum period for payment may not exceed five
4 years.

5 (f) If a ~~[person who became a]~~ member ~~[before October 1,~~
6 ~~1997,~~] does not make the payment authorized ~~[required]~~ under
7 Subsection (b) ~~[(c)]~~ of this section within the ~~[required amount~~
8 ~~of]~~ time prescribed by Subsection (c) of this section and the member
9 would otherwise be eligible for credit under federal law, the
10 member may receive credit for the uniformed service if:

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

14 (2) the member ~~[also]~~ pays interest, compounded
15 annually, on the then current rate of a member's contribution from
16 the date the payment was required to the date the payment was made.

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

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

26 SECTION 7. Section 5.01, 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 Subsection (j) and
2 adding Subsection (j-1) to read as follows:

3 (j) Subject to Subsection (j-1) of this section, beginning
4 ~~[Beginning]~~ with the first monthly benefit payable by the fund
5 after October 1, 2007:

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

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

14 (j-1) Subsection (j) of this section does not limit in any
15 way the board's discretion to reduce or discontinue disability
16 retirement benefits under Section 5.05 of this Act.

17 SECTION 8. Section 5.03, Chapter 824 (S.B. 817), Acts of the
18 73rd Legislature, Regular Session, 1993 (Article 6243o, Vernon's
19 Texas Civil Statutes), is amended by amending Subsections (a),
20 (a-1), (c), and (d) and adding Subsection (a-3) to read as follows:

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

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

27 (2) establishes to the satisfaction of the board, in

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

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

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

19 (2) establishes to the satisfaction of the board, in
20 the board's sole discretion, that the member is permanently so
21 disabled as a result of a catastrophic injury as to:

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

25 (B) have, as a result of the lack of third-party
26 employment or self-employment, an annual income less than the
27 poverty level for one person in the 48 contiguous states of the

1 United States as provided under the poverty guidelines published
2 from time to time by the United States Department of Health and
3 Human Services, or similar guidelines selected by the board;

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

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

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

12 (a-3) In making a determination under this section, the
13 board may, in the board's sole discretion, consider or require any
14 evidence the board considers necessary or appropriate to make the
15 determination.

16 (c) A [~~Except as provided by Subsection (d) of this section,~~
17 ~~a]~~ member [~~of the fund]~~ who is on suspension for a specific period,
18 including a member whose indefinite suspension is reversed or
19 modified to a suspension for a specific period, and who becomes
20 disabled as a result of an injury sustained or disease contracted
21 while the member is on suspension is eligible for a disability
22 retirement annuity under Subsection (a) or (a-1) of this section,
23 as applicable, only if the suspended member makes up each
24 [~~deducted~~] contribution to the fund not made by the member [~~lost~~] by
25 reason of the suspension not later than the 30th day after the later
26 of the termination date of the suspension or the date the suspension
27 becomes final in accordance with Section 6.105 of this Act

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

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

17 SECTION 9. Sections 5.04(a) and (a-1), Chapter 824 (S.B.
18 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article
19 [6243o](#), Vernon's Texas Civil Statutes), are amended to read as
20 follows:

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

24 (1) 50 percent of the member's average total salary, if
25 the member has served three years or more before the date of
26 retirement;

27 (2) 50 percent of the member's average monthly total

1 salary as of the date of retirement multiplied by 12, if the member
2 has served at least two months and less than three years before the
3 date of retirement; or

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

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

11 (1) 87.5 percent of the member's average total salary,
12 if the member has served three years or more before the date of
13 retirement;

14 (2) 87.5 percent of the member's average monthly total
15 salary as of the date of retirement multiplied by 12, if the member
16 has served at least two months and less than three years before the
17 date of retirement; or

18 (3) 87.5 percent of the member's average daily total
19 salary as of the date of retirement multiplied by 360, if the member
20 has served less than two months before the date of retirement.

21 SECTION 10. Sections 5.05(a-1), (a-3), (c), and (c-1),
22 Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular
23 Session, 1993 (Article [6243o](#), Vernon's Texas Civil Statutes), are
24 amended to read as follows:

25 (a-1) A disability retiree who is awarded a catastrophic
26 injury disability annuity under Section 5.03(a-1) of this Act
27 shall, if required by the board, undergo a medical examination by

1 any reputable physician or physicians selected by the board:

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

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

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

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

17 (1) 2.25 percent multiplied by the number of years
18 that the retiree served in the department and contributed a portion
19 of salary as a member of the fund multiplied by the retiree's
20 average total salary, if the retiree served three years or more
21 before the date of retirement;

22 (2) 2.25 percent multiplied by the number of years
23 that the retiree served in the department and contributed a portion
24 of salary as a member of the fund multiplied by the retiree's
25 average monthly total salary as of the date of retirement
26 multiplied by 12, if the retiree served at least two months and less
27 than three years before the date of retirement; or

1 (3) 2.25 percent multiplied by the number of years
2 that the retiree served in the department and contributed a portion
3 of salary as a member of the fund multiplied by the retiree's
4 average daily total salary as of the date of retirement multiplied
5 by 360, if the member has served less than two months before the
6 date of retirement.

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

11 SECTION 11. Section 5.07, Chapter 824 (S.B. 817), Acts of
12 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
13 Vernon's Texas Civil Statutes), is amended by amending Subsection
14 (b) and adding Subsection (b-1) to read as follows:

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

23 (b-1) The board may, in the board's sole discretion, restore
24 a disability retirement annuity that has been reduced under
25 Subsection (b) of this section. The amount of the restored annuity
26 must be the same as the amount of the annuity before the reduction
27 plus any applicable cost-of-living increases under Section 5.09 of

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

4 SECTION 12. Section 5.10, Chapter 824 (S.B. 817), Acts of
5 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
6 Vernon's Texas Civil Statutes), is amended by amending Subsections
7 (b), (c), (d), (f), and (j) and adding Subsections (b-1) and (d-1)
8 to read as follows:

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

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

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

23 (2) "Distributee" means a member or former member.
24 The term includes a member's or former member's surviving spouse or
25 designated beneficiary and a member's or former member's spouse or
26 former spouse who is the alternate payee under a qualified domestic
27 relations order, as defined by Section 414(p) of the code, with

1 regard to the interest of the spouse or former spouse.

2 (3) "Eligible retirement plan" means:

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

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

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

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

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

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

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

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

25 (A) a distribution that is one of a series of
26 substantially equal periodic payments, paid not less frequently
27 than once a year, made over the life or life expectancy of the

1 distributee or the joint lives or joint life expectancies of the
2 distributee and the distributee's designated beneficiary;

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

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

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

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

1 ~~who is not an eligible participant~~].

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

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

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

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

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

13 (f) Distribution of benefits must:

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

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

17 (B) retires; and

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

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

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

17 SECTION 13. Section 6.01(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) Subject to the applicable provisions of this Act,
21 including Section 6.02(j) of this Act, a [A] dependent child is
22 entitled to receive benefits based on the service of any parent who
23 is a member of the fund.

24 SECTION 14. Sections 6.02(d-2), (g), and (j), Chapter 824
25 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993
26 (Article 6243o, Vernon's Texas Civil Statutes), are amended to read
27 as follows:

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

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

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

1 state by the federal government. In no other instance under this Act
2 is a child entitled to any benefit after becoming 18 years of age.

3 SECTION 15. Section 6.03, Chapter 824 (S.B. 817), Acts of
4 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
5 Vernon's Texas Civil Statutes), is amended to read as follows:

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

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

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

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

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

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

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

17 SECTION 16. Section 6.04, Chapter 824 (S.B. 817), Acts of
18 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
19 Vernon's Texas Civil Statutes), is amended to read as follows:

20 Sec. 6.04. EFFECT OF MARRIAGE ON [~~REMARriage,~~] BENEFITS
21 [~~AFTER TERMINATION OF MARRIAGE~~]. (a) Except as provided by
22 Subsection (e) of this section, the [~~The~~] right of a surviving
23 spouse or dependent child to annuity payments under this Act is not
24 affected by the surviving spouse's marriage [~~remarriage~~] or
25 dependent child's marriage under either statutory or common law if
26 the marriage [~~or remarriage~~] takes place on or after October 1,
27 1995.

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

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

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

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

3 SECTION 17. Section 6.06, Chapter 824 (S.B. 817), Acts of
4 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
5 Vernon's Texas Civil Statutes), is amended to read as follows:

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

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

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

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

7 SECTION 19. Section 6.10, Chapter 824 (S.B. 817), Acts of
8 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
9 Vernon's Texas Civil Statutes), is amended to read as follows:

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

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

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

26 (2) the member had a reasonable chance of having the
27 indefinite suspension reversed or modified to be a suspension for a

1 specific period.

2 SECTION 20. Chapter 824 (S.B. 817), Acts of the 73rd
3 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
4 Civil Statutes), is amended by adding Section 6.105 to read as
5 follows:

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

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

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

14 SECTION 21. Section 6.14(i), Chapter 824 (S.B. 817), Acts
15 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,
16 Vernon's Texas Civil Statutes), is amended to read as follows:

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

25 SECTION 22. Chapter 824 (S.B. 817), Acts of the 73rd
26 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
27 Civil Statutes), is amended by adding Section 6.15 to read as

1 follows:

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

13 SECTION 23. Section 3.03(a), Chapter 824 (S.B. 817), Acts
14 of the 73rd Legislature, Regular Session, 1993 (Article 6243o,
15 Vernon's Texas Civil Statutes), is repealed.

16 SECTION 24. This Act takes effect October 1, 2019.