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AN ACT

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

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

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

(b) The board, through its secretary, shall administer the required elections of the active member and retiree representatives by mailing ballots to all eligible members, retirees, or beneficiaries. Only retirees and surviving spouses who are currently receiving benefits from the fund are eligible to vote for the retiree representatives. If no candidate receives a majority of the votes cast for any trustee position, the board shall hold a run-off election in which the only candidates are the candidates who received the highest and second-highest number of votes cast. If a candidate for trustee is unopposed in an election, the board shall certify the candidate as elected to the board on the executive director's certification that the candidate is eligible and is unopposed for election.

SECTION 2. Sections 2.03(d) and (e), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas Civil Statutes), are amended to read as follows:

(d) A removal election under this section must be held and

1 completed within 90 [~~30~~] days after the date the board certifies
2 that a proper petition for a removal election has been signed by at
3 least 20 percent of the membership from which the trustee was
4 elected. A trustee's term of service ends on the entry of an order
5 by the board declaring that a majority of the votes cast in a
6 removal election under this section favor removal.

7 (e) On the date the board enters an order under Subsection
8 (d) of this section, the board shall call a special election [~~to be~~
9 ~~held not less than 20 nor more than 30 days after that date~~] to fill
10 the vacancy for the unexpired term of the trustee who was removed.
11 The trustee who was removed is not eligible to run in the special
12 election but is eligible to run in all subsequent board elections.

13 SECTION 3. Section 3.01, Chapter 824, Acts of the 73rd
14 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
15 Civil Statutes), is amended by adding Subsections (f)-(j) to read
16 as follows:

17 (f) Attendance by any number of the trustees at a conference
18 or gathering to research prospective investments or review current
19 ones, to attend professional training, or otherwise attend to their
20 fiduciary responsibilities, during which no formal discussion of
21 public business takes place and no formal action is taken, is not a
22 deliberation or meeting within the meaning of Chapter 551,
23 Government Code, and is not required to be open to the public.

24 (g) A trustee of the fund is immune from liability for an
25 action or omission made by the trustee in the performance of the
26 trustee's official duties for the fund that is made in good faith.

27 (h) Records that are in the custody of the board concerning

1 a member, former member, retiree, deceased retiree, beneficiary, or
2 alternate payee are not public information under Chapter 552,
3 Government Code, and may not be disclosed in a form identifiable to
4 a specific individual unless:

5 (1) the information is disclosed to:

6 (A) the individual or the individual's attorney,
7 guardian, executor, administrator, or conservator, or another
8 person whom the executive director determines from written
9 documentation to be acting in the interest of the individual or the
10 individual's estate;

11 (B) a spouse or former spouse of the individual,
12 if the executive director determines that the information is
13 relevant to the spouse's or former spouse's interest in a member's
14 accounts or benefits or other amounts payable by the pension
15 system;

16 (C) a government official or employee seeking
17 the information in order to perform the duties of the official or
18 employee; or

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

21 (2) the information is disclosed under a subpoena and
22 the executive director of the fund or the executive director's
23 designee determines that the individual will have a reasonable
24 opportunity to contest the subpoena.

25 (i) Subsection (h) of this section does not prevent the
26 disclosure of the status or identity of an individual as a member,
27 former member, retiree, deceased member, deceased retiree,

1 beneficiary, or alternate payee of the fund.

2 (j) A determination and disclosure under Subsection (h) of
3 this section does not require notice to the individual member,
4 retiree, beneficiary, or alternate payee.

5 SECTION 4. Section 3.03, Chapter 824, Acts of the 73rd
6 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
7 Civil Statutes), is amended by adding Subsection (e) to read as
8 follows:

9 (e) The board may pay for the cost of counseling for members
10 of the fund regarding retirement matters.

11 SECTION 5. Section 5.015, Chapter 824, Acts of the 73rd
12 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
13 Civil Statutes), is amended by amending Subsections (d) and (e) and
14 adding Subsections (d-1) and (e-1) to read as follows:

15 (d) The amount of a lump-sum payment to which a member
16 making a Back DROP election is entitled shall be computed in the
17 manner provided by this subsection and Subsection (d-1) of this
18 section. The member's retirement annuity shall be computed in the
19 manner provided by Section 5.01 of this Act, except that the amount
20 of service credit and average total salary [retirement date] used
21 in making that computation shall be determined in accordance with
22 [is the retirement date computed as provided by] this subsection.
23 For [The member's retirement annuity as so computed shall be
24 divided by 12 to compute the member's monthly pension. The member's
25 monthly pension multiplied by the number of full months elected by
26 the member under Subsection (b)(1) of this section is the amount of
27 the lump-sum payment to which the member is entitled. Solely for]

1 purposes of this subsection, [computing] the member's average total
2 salary shall be computed based on [monthly pension under this
3 subsection, the member's retirement date is] the member's Back DROP
4 retirement date, which is the member's actual retirement date less
5 the amount of time the member elects under Subsection (b)(1) of this
6 section. For purposes of this subsection, the member's service
7 credit shall be the member's service credit determined in
8 accordance with Section 5.01(g) of this Act less the amount of time
9 for:

10 (1) any service credit in excess of 34 years of
11 service, other than service credit for sick leave unused on the date
12 of actual retirement;

13 (2) any service credit given for sick leave unused on
14 the date of actual retirement; and

15 (3) any service credit in excess of 20 years but not in
16 excess of the amount permitted under Subsection (b)(1) of this
17 section that the member elects for computing the amount of the
18 lump-sum payment.

19 (d-1) The member's retirement annuity as computed under
20 Subsection (d) of this section shall be divided by 12 to compute the
21 member's monthly pension to be used to compute the lump-sum
22 payment. The member's monthly pension multiplied by the number of
23 full months elected by the member under Subsection (b)(1) of this
24 section is the amount of the lump-sum payment to which the member is
25 entitled.

26 (e) For purposes of computing the monthly pension of a
27 member making a Back DROP election, the member's retirement annuity

1 shall be computed in the manner provided by Section 5.01 of this
2 Act, except that:

3 (1) the amount of service credit [~~retirement date~~]
4 used in making that computation shall be [~~is~~] the member's service
5 credit determined in accordance with Section 5.01(g) of this Act
6 [~~actual retirement date~~] less:

7 (A) the amount of time the member elects under
8 Subsection (b)(1) of this section; and

9 (B) any service credit in excess of 34 years of
10 service excluding any service credit for sick leave unused on the
11 date of actual retirement; and

12 (2) the member's average total salary shall be
13 computed as if the member's retirement date were the member's actual
14 retirement date less the amount of time the member elects under
15 Subsection (b)(1) of this section.

16 (e-1) The annuity computed under Subsection (e) of this
17 section may not exceed the applicable limitations provided by
18 Section 5.01 of this Act. The member's retirement annuity shall be
19 divided by 12 to compute the member's monthly pension.

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

23 (a) At or before its regular meeting in the month of March,
24 the board annually shall review the Consumer's Price Index for All
25 Urban Consumers (CPI-U), U.S. City Average or the nearest
26 equivalent published by the United States Bureau of Labor
27 Statistics for the preceding calendar year. If that index shows an

1 increase during the preceding calendar year in the cost of living as
2 compared with that index at the close of the previous year, the
3 board shall order an increase of all service, disability, and death
4 benefit retirement annuities by a percentage that varies by the
5 date of the member's service or disability retirement, or, in the
6 case of a member who died before retirement, the date on which the
7 member died. If the member's service retirement, disability
8 retirement, or death before retirement occurred before August 30,
9 1971, the annuity shall be increased by a percentage equal to the
10 percentage increase in the cost of living index. If the member's
11 service retirement, disability retirement, or death before
12 retirement occurred on or after August 30, 1971, but before October
13 1, 1993 [~~1991~~], the annuity shall be increased as follows: if the
14 percentage increase in the cost of living index is eight percent or
15 less, the annuity shall be increased by a percentage equal to the
16 percentage increase, and if the percentage increase in the cost of
17 living index is more than eight percent, the annuity shall be
18 increased by eight percent plus a percentage equal to 75 percent of
19 the percentage increase that is more than eight percent. If the
20 member's service retirement, disability retirement, or death
21 before retirement occurred on or after October 1, 1993 [~~1991~~], the
22 annuity shall be increased by a percentage equal to 75 percent of
23 the percentage increase in the cost of living index. A percentage
24 increase in annuities shall be rounded to the nearest one-tenth
25 percentage point for a cost of living increase.

26 SECTION 7. Section 6.02, Chapter 824, Acts of the 73rd
27 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas

1 Civil Statutes), is amended by amending Subsection (g) and adding
2 Subsections (m) and (n) to read as follows:

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

10 (m) Subject to Subsection (n) of this section, a service
11 retiree who marries after the date of retirement may elect to
12 receive a reduced annuity during the retiree's lifetime and provide
13 for a death benefit annuity to the retiree's surviving spouse. The
14 amount of the reduced annuity and spousal death benefit shall be
15 determined by the fund's actuary and shall be actuarially
16 equivalent to the annuity the retiree was receiving immediately
17 before the election under this subsection. An election made under
18 this subsection may be canceled by the retiree before the retiree's
19 death on the divorce of the retiree or the death of the retiree's
20 spouse. After the election is canceled, the retiree shall be
21 entitled to receive the same annuity to which the retiree would have
22 been entitled if the election had not been made. A retiree who
23 cancels an election under this subsection is not entitled to any
24 additional benefits for the period of time before the cancellation.
25 The board shall adopt policies and procedures governing elections
26 and cancellation of elections under this subsection. An election
27 or cancellation of an election made under this subsection must be

1 made in accordance with the board's policies and procedures.

2 (n) A retiree may not make an election under Subsection (m)
3 of this section at a time in which there are one or more dependent
4 children of the retiree who would be entitled to a death benefit
5 under this section on the death of the retiree.

6 SECTION 8. Section 6.08, Chapter 824, Acts of the 73rd
7 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
8 Civil Statutes), is amended by amending Subsection (b) and adding
9 Subsection (c) to read as follows:

10 (b) A surviving spouse [~~under this section~~] is not entitled
11 to a lump-sum death benefit under this section if a child is
12 entitled to receive benefits under this Act.

13 (c) A surviving spouse is not entitled to a lump-sum death
14 benefit under this section if the surviving spouse is entitled to an
15 annuity under Section 6.02(m) of this Act.

16 SECTION 9. Section 6.11, Chapter 824, Acts of the 73rd
17 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
18 Civil Statutes), is amended to read as follows:

19 Sec. 6.11. DEATH BENEFIT FOR ACTIVE MEMBER'S ESTATE. If an
20 active member dies and does not leave a beneficiary, the estate of
21 the deceased member is entitled to a death benefit payment from the
22 fund in an [the] amount equal to the greater of:

23 (1) five times the amount of an annuity computed in
24 accordance with Section 5.01(f) of this Act using the deceased
25 member's service credit and average total salary as of the date of
26 death; [~~of \$10,000~~] or

27 (2) the refund of the member's contributions that were

1 picked up by the municipality[~~, whichever amount is greater~~].

2 SECTION 10. Section 6.115, Chapter 824, Acts of the 73rd
3 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
4 Civil Statutes), is amended to read as follows:

5 Sec. 6.115. DEATH BENEFIT FOR RETIREE'S ESTATE. If a
6 retiree dies and does not leave a beneficiary, the estate of the
7 retiree is entitled to a death benefit payment from the fund in an
8 ~~[the]~~ amount equal to five times the amount of the annuity awarded
9 by the board effective on ~~[of]~~ the retiree's date of retirement,
10 ~~[contributions that were picked up by the municipality]~~ less any
11 retirement or disability annuity and any lump sum under Section
12 5.015 of this Act paid to the retiree.

13 SECTION 11. Sections 6.14(h) and (l), Chapter 824, Acts of
14 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
15 Vernon's Texas Civil Statutes), are amended to read as follows:

16 (h) In determining the annuity under Subsection (e) of this
17 section for a surviving spouse whose death benefit annuity is
18 limited by Section 6.02(b) of this Act, the deceased member's
19 service credit is the lesser of:

20 (1) the deceased member's service credit computed as
21 provided by Section 5.01(g) of this Act ~~[27 years]~~, less the number
22 of months elected by the surviving spouse under Subsection (f) of
23 this section; or

24 (2) 27 years.

25 (l) In determining the reduced annuity under Subsection (j)
26 of this section for a surviving spouse whose death benefit annuity
27 is limited by Section 6.02(b) of this Act, the deceased member's

1 service credit is the lesser of:

2 (1) the deceased member's service credit computed as
3 provided by Section 5.01(g) of this Act [~~27 years~~], less the number
4 of months elected by the surviving spouse under Subsection (f) of
5 this section; or

6 (2) 27 years.

7 SECTION 12. Section 7.06, Chapter 824, Acts of the 73rd
8 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas
9 Civil Statutes), is amended to read as follows:

10 Sec. 7.06. INVESTMENT CONSULTANT [~~MANAGER~~] QUALIFICATIONS.
11 In appointing investment consultants [~~managers~~], the board shall
12 require that the investment consultant [~~manager~~] be:

13 (1) registered under the Investment Advisors Act of
14 1940 (15 U.S.C. Section 80b-1 et seq.) and its subsequent
15 amendments;

16 (2) a bank as defined by that Act; or

17 (3) an insurance company qualified to perform
18 investment services under the laws of more than one state.

19 SECTION 13. Sections 2.04(b) and 7.01, Chapter 824, Acts of
20 the 73rd Legislature, Regular Session, 1993 (Article 6243o,
21 Vernon's Texas Civil Statutes), are repealed.

22 SECTION 14. This Act takes effect October 1, 2005..

David Swinhart

President of the Senate

Jim Coakley

Speaker of the House

I certify that H.B. No. 2374 was passed by the House on April 29, 2005, by a non-record vote.

Robert Haney

Chief Clerk of the House

I certify that H.B. No. 2374 was passed by the Senate on May 20, 2005, by the following vote: Yeas 30, Nays 2.

Patricia Spaw

Secretary of the Senate

APPROVED:

17 JUNE '05

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:20 A.M. O'CLOCK

JUN 17 2005

Roger Williams
Secretary of State