

CHAPTER 69

H.B. No. 721

AN ACT

relating to benefits and eligibility for benefits from fire fighters' retirement systems in certain municipalities.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 3(a)(1), Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) Any fire fighter who has been duly appointed and enrolled and who has performed service in any rank, as a fully paid fire fighter, in one or more fire departments in any city in this state covered by the provisions of this Act may retire and be entitled to receive from the fire fighter's relief and retirement fund of that city a monthly pension equal to 2-1/2 percent of the fire fighter's average monthly salary multiplied by the number of the person's years of service and any fraction of a year of service, if the fire fighter:

- (A) has attained the age of 52 [53] years and completed at least 10 years of service; or
- (B) has served actively for a period of at least 27 [28] years, regardless of age.

SECTION 2. Section 3(f), Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) Any person who has been appointed and enrolled and *either* has attained the age of 50 years and served actively for a period of at least 10 years, *or has served at least 25 years, regardless of age, [and whose service was performed]* in any rank, as a fully paid *fire fighter* [fireman], in one or more regularly organized fire departments in any city covered by this Act may retire and be entitled to receive from the fire fighter's relief and retirement fund of that city a [reduced] monthly pension equal to the pension described under Section 3(a) of this Act, *reduced according to tables recommended by the board of trustees' actuary and adopted by the board for [multiplied by a percentage determined by the board of trustees' actuary as the percentage necessary to provide an actuarially equivalent] early retirement [benefit].*

SECTION 3. Section 5(a)(1), Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) A fire fighter's normal retirement age is the earliest age at which the fire fighter will be at least 52 [53] years of age and will have completed at least 10 years of service or the earliest age at which the fire fighter would have completed at least 27 [28] years of service had the fire fighter not terminated employment.

SECTION 4. Section 5(b), Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) In the event a fire fighter who terminates employment with the fire department under this section dies either before age 52 [53] or after attaining the age of 52 [53] and beginning to receive benefits under this section, the fire fighter's surviving spouse is entitled to receive an immediate monthly benefit as described under Section 11(c) of this Act, if the spouse was married to the fire fighter:

- (1) on the fire fighter's date of termination, if the fire fighter's death occurred before age 52 [53]; or
- (2) when the fire fighter attained the age of 52 [53], if the fire fighter's death occurred after attaining the age of 52 [53].

SECTION 5. Section 10(e), Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), is amended to read as follows:

(e)(1) The severance benefit of a fire fighter who [subsequently] terminates the fire fighter's employment before eligibility for retirement shall be an amount equal to the amount of the fire fighter's monthly contributions, *with [without]* interest, made while a participating

member of the fire fighter's relief and retirement fund, in excess of the amount of benefits that the member previously received from the fund. If the member's employment is terminated by death before retirement and the member leaves no surviving beneficiary entitled to pension benefits, the member's estate shall receive the amount of the member's contributions, ~~with [without]~~ interest, in excess of the amount of benefits that the member previously received from the fund. *In each instance in which a member's contributions are to be paid to a fire fighter or a fire fighter's estate or surviving relative, the payment will include accumulated interest computed as provided by this section.*

(2) *On December 31, 1993, the fund shall credit interest to the account of each fire fighter who had contributions on deposit with the fund on January 1, 1993, and has not retired, died, or withdrawn those contributions. The amount of interest credited on December 31, 1993, will be computed by multiplying five percent by an amount equal to one-half of the member's contributions on deposit on January 1, 1993, and then multiplying that product by the number of whole calendar years that the fire fighter has been a member of the fund on December 31, 1993.*

(3) *Beginning December 31, 1994, the fund shall credit interest on December 31 of each year to the account of each fire fighter in an amount equal to five percent of the accumulated contributions, including previously credited interest, on deposit on January 1 of that year.*

(4) *The fund may not pay interest on a fire fighter's contributions for part of a year or for any period that is more than five calendar years after the date of termination of employment.*

SECTION 6. Sections 11(a), (b), (c), (d), and (f), Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) If a *fire fighter* ~~[fireman]~~ dies before retirement, the *fire fighter's* ~~[fireman's]~~ surviving spouse, if married to the member on the member's date of death, shall be entitled to receive an immediate monthly pension, the amount of which~~[,] if the spouse was two years younger than the member,~~ shall be 75 percent of the member's accrued unreduced pension as determined under Section 3(a) of this Act when 20 years of service is assumed. ~~[If the relative ages of the fireman and the fireman's spouse were not as described by this subsection, the death benefit is a percentage of the member's accrued unreduced pension as described in Subsection (g) of this section.]~~

(b) On the death of a member who retired under Section 3(a) or (f) or Section 6(a) or (b) of this Act, the surviving spouse, if married to the person on the person's date of retirement, is entitled to receive an immediate monthly pension~~[,] if the spouse was two years younger than the member,~~ equal to 75 percent of the pension being paid to the member. ~~[If the relative ages of the member and the member's spouse were not as described by this subsection, the death benefit is a percentage of the pension as described in Subsection (g) of this section.]~~

(c) On the death of a fire fighter who terminated employment with the fire department after 10 or more years of service before age 52 ~~[53]~~, the surviving spouse is entitled to receive an immediate monthly pension equal to 75 percent of the pension the member was either receiving or entitled to receive at age 52 ~~[53]~~, if:

(1) ~~[the spouse was two years younger than the member; and~~

~~[(2)(A)]~~ the spouse was married to the member on the date of the member's termination of employment, if the member's death occurred before age 52 ~~[53]~~; or

~~[(2)(B)]~~ the spouse was married to the member when the member attained the age of 52 ~~[53]~~, if the member's death occurred after the member attained the age of 52 ~~[53]~~. ~~[If the relative ages of the member and the member's spouse were not as described by this subsection, the death benefit is a percentage of the amount the fire fighter was receiving or was entitled to receive at age 53 as described in Subsection (g) of this section.]~~

(d) A deceased member's unmarried children under the age of 22 are entitled to receive, if there is no surviving spouse, a total amount of monthly pension equal to 75 percent of the monthly benefit based on ~~[the factor described by Section 3(b) of this Act,]~~ the fire fighter's average monthly salary at the time of death~~[,] and the number of years and any fraction of a year of the fire fighter's service, assuming 20 years of service if service is less than 20 years.~~ Each dependent child is entitled to receive an equal share of the total amount of monthly

pension. If there is a surviving spouse, each deceased member's unmarried child under the age of 22 is entitled to receive 15 percent of the monthly benefit based on ~~[the factor described by Section 3(b) of this Act,]~~ the fire fighter's average monthly salary at the time of death[,], and the number of years and any fraction of a year of the fire fighter's service, assuming 20 years of service if service is less than 20 years. The total amount of benefits being paid to the children if there is a surviving spouse may not exceed the total amount of benefits payable to dependent children if there is no surviving spouse. Payments to a child shall be made whether or not a spouse survives and shall continue after the death of a surviving spouse but shall cease on the earliest of the child's death, marriage, or attainment of age 22.

(f) If a deceased or retired member leaves no surviving spouse or children eligible to receive a benefit under this section but is survived by one or more dependent parents, the dependent parent, or one of the surviving parents designated by the board of trustees, is entitled to receive a monthly pension equal to the amount that would have been payable to a surviving spouse ~~[who was two years younger than the deceased member]~~. If a deceased member leaves no surviving spouse, children, or dependent parent eligible to receive a benefit as provided in this section, the member's total contributions, less any amount previously paid to the member, shall be paid to the member's estate.

SECTION 7. Section 11(g), Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), is repealed.

SECTION 8. The changes in law made by this Act in the benefits payable to survivors of deceased members or retirees apply to all payments that become due on or after the effective date of this Act to survivors of persons who die on or after that date, except that the retirement system may not reduce a benefit being paid on the effective date of this Act because of the changes made by this Act.

SECTION 9. This Act takes effect September 1, 1993.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on March 25, 1993, by a non-record vote; passed by the Senate on April 22, 1993: Yeas 29, Nays 0.

Approved May 2, 1993.

Effective Sept. 1, 1993.