

MINUTES
LEGISLATIVE COMMITTEE MEETING
FIRE AND POLICE PENSION FUND, SAN ANTONIO
THURSDAY, NOVEMBER 10, 2022
PENSION OFFICE – 10:30 A.M.

**COMMITTEE
MEMBERS**

PRESENT: Chairman Dean Pearson, Active Fire Representative; Jim Smith, Active Police Representative; Larry Reed, Retired Fire Representative.

**COMMITTEE
MEMBERS**

ABSENT: None.

OTHERS

PRESENT: Warren Schott, Executive Director; Mark Gremmer, Gail Jensen, Rick Matye, Nancy Ybarra, Pension Fund Staff.

At 11:30 a.m., Mr. Pearson called the meeting to order. Roll was called, and a quorum was declared present.

**APPROVAL
OF MINUTES:**

Mr. Smith moved to approve the minutes of the meeting of September 21, 2022. The motion carried unanimously.

**REVIEW &
DISCUSSION**

The Committee reviewed a letter that had been submitted to the Pension Fund Board by the Retiree Healthcare Fund addressing the Pension Fund's proposal to amend the Healthcare Fund's statute to remove the requirement it places on the Pension Fund to collect Healthcare Fund contributions for certain retirees. In 2007, unbeknownst to the Pension Fund, the Healthcare Fund added the language to their statute. Upon learning of this, the Pension Fund asked the Healthcare Fund to remove the language the next time they took legislation to the State, but the Healthcare Fund has not filed legislation since 2007. The Pension Fund was considering including a revision to the Healthcare Fund statute in the Bill we will be filing this Session. In the letter, the Healthcare Fund requested the Pension Fund Board postpone any action until the 2025 Legislative Session so they can address this issue themselves. After discussion, the Committee agreed and determined to not include this change in our Bill.

The Committee next reviewed a report from Segal Consulting regarding the costs of increasing the current 50% death benefit to a 75% death benefit. Mr. Schott reminded the Committee that City

Staff had requested this information as they consider the Pension Fund's proposed 75% death benefit for deaths resulting from cancer and covid. The actuary report showed that making the proposed change would be a significant cost to the Fund. As a result, after reviewing the report, the Committee took no action. Mr. Schott noted that the report had been forwarded to City Staff, but they have not yet responded, nor have they taken a position on the Pension Fund's Bill. The Committee discussed its options in light of the City Staff's delay and determined to ask Councilwoman Dr. Rocha Garcia for assistance.

Finally, the Committee discussed which state legislators we should ask to file our Bill. After a lengthy discussion, the Committee agreed to request Representatives Steve Allison and Philip Cortez to file the Bill in the Texas House, and Senator Donna Campbell to file in the Senate.

ADJOURNMENT: Mr. Reed moved to adjourn at 11:54 a.m., and the Motion carried.

Approved this _____ day of _____, 2022.

Dean Pearson, Chairman

75% DEATH BENEFIT (6.025) OPTION 1*

SECTION 6.025. DEATH BENEFIT ANNUITY FOR SPOUSE AND CHILDREN OF MEMBER WHO DIED DUE TO CANCER OR THE 2019 NOVEL CORONAVIRUS DISEASE (COVID-19).

(a) The death benefit annuity of a surviving spouse and any dependent child of a member of the fund who died as a result of cancer or COVID-19 is governed by this section. A member of the fund who died as a result of cancer or COVID-19 is not considered to be killed in the line of duty under Section 6.03 of this Act.

(b) On an application for survivor's benefits by a surviving spouse or dependent child, the fund shall pay the normal benefits payable under Section 6.02 of this Act. When a benefit is payable under this section, the death benefit annuity shall be recomputed, applying Subsection (c) of this section, and any deficiency payment shall be paid to the eligible beneficiaries.

(c) Notwithstanding the formulas for computing the total amounts of annuities otherwise provided by this Act, if a member died from cancer or COVID-19, the member's surviving spouse and dependent children are entitled to receive from the fund an aggregate death benefit annuity, computed and payable from the date of the member's death, in an amount equal to:

(1) 75 percent of the member's average total salary, if the member served as a fire fighter or police officer three or more years before the date of the member's death;

(2) 75 percent of the member's average monthly total salary as of the date of the member's death multiplied by 12, if the member has served at least two months and less than three years before the date of the member's death; or

(3) 75 percent of the member's average daily total salary as of the date of the member's death multiplied by 360, if the member has served less than two months before the date of the member's death.

(d) The provisions of this Act relating to qualification and disqualification for and apportionment of benefits apply to a death benefit annuity computed under this section. A death benefit annuity computed under this section is divided in the manner described by Section 6.02 of this Act and is subject to the same cost-of-living adjustments that apply to annuities for service retirement.

(e) The surviving spouse and any dependent child of a member who died as a result of cancer or COVID-19 after September 1, 2005, but before August 31, 2023, who (i) was awarded a death benefit under Section 6.02, and (ii) would otherwise be qualified to receive a death benefit annuity under this section, are eligible to receive an annuity under this section. The annuity awarded by the Board under this subsection shall increase the amount of the annuity previously awarded under Section 6.02 to equal the amount it would have been if the annuity had been awarded under this Section 6.025, taking into account the cost of living adjustment increases provided for in Section 5.09 of this Act. The increased amount provided under this subsection shall be provided prospectively beginning September 1, 2023, and the surviving spouse or dependent child are not entitled to receive any increases in benefits relating to any period before September 1, 2023.

* Agreed-upon language with revision to (e)(i) to remove requirement that had applied under 6.03, and clarification with respect to KLOD.

75% DEATH BENEFIT (6.025)

OPTION 2*

SECTION 6.025. DEATH BENEFIT ANNUITY FOR SPOUSE AND CHILDREN OF MEMBER WHO DIED DUE TO CANCER OR THE 2019 NOVEL CORONAVIRUS DISEASE (COVID-19)

(a) The death benefit annuity of a surviving spouse and any dependent child of a member of who died as a result of cancer or COVID-19 is governed by this section.

(b) On an application for survivor's benefits by a surviving spouse or dependent child, the member shall pay the normal benefits payable under Section 6.02 of this Act. When a benefit is payable under this section, the death benefit annuity shall be recomputed, applying Subsection (c) of this section, and any deficiency shall be paid to the eligible beneficiaries.

(c) Notwithstanding the formulas for computing the total amounts of annuities otherwise provided for in this Act, if a member died from cancer or COVID-19, the member's surviving spouse and dependent child entitled to receive from the fund an aggregate death benefit annuity, computed and payable from the date of the member's death, in an amount equal to:

(1) 75 percent of the member's average total salary, if the member served as a fire fighter officer three or more years before the date of the member's death;

(2) 75 percent of the member's average monthly total salary as of the date of the member's death multiplied by 12, if the member has served at least two months and less than three years before the date of the member's death; or

(3) 75 percent of the member's average daily total salary as of the date of the member's death multiplied by 360, if the member has served less than two months before the date of the member's death.

(d) The provisions of this Act relating to qualification and disqualification for and apportionment of benefits apply to a death benefit annuity computed under this section. A death benefit annuity computed under this section is divided in the manner described by Section 6.02 of this Act and is subject to the same cost-of-living adjustments that apply to annuities for service retirement.

(e) The surviving spouse and any dependent child of a member who died as a result of cancer or COVID-19 after September 1, 2005, but before August 31, 2023, who (i) was awarded a death benefit annuity under Section 6.02, and (ii) would otherwise be qualified to receive a death benefit annuity under this section, are entitled to receive an annuity under this section. The annuity awarded by the Board under this subsection shall be the amount of the annuity previously awarded under Section 6.02 to equal the amount it would have been awarded had been awarded under this Section 6.025, taking into account the cost of living adjustment provided for in Section 5.09 of this Act. The increased amount provided under this subsection shall be prospectively beginning September 1, 2023, and the surviving spouse or dependent child are not entitled to any increases in benefits relating to any period before September 1, 2023.

* Agreed-upon language with revision to (e)(i) to remove requirement that had applied under 6.03.

KLOD DEATH BENEFIT (6.03)

OPTION 1*

SECTION 6.03. DEATH BENEFIT ANNUITY FOR SPOUSE AND CHILDREN OF MEMBER KILLED IN THE LINE OF DUTY.

(a) The death benefit annuity of a surviving spouse and any dependent child of a member of the fund who is killed in the line of duty is governed by this section.

(1) A member of the fund is considered to have been killed in the line of duty if the member's death directly resulted from Traumatic Injury sustained while engaging in law enforcement activity, fire suppression, rescue, hazardous material response, emergency medical services, disaster relief or other emergency response activity, or simulated training thereof. A Traumatic Injury means severe physical injury of sudden onset and of a life-ending or life-threatening nature. A member of the fund who died as a result of cancer or COVID-19 is not considered to be killed in the line of duty under this section.

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

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

(1) the total salary ~~of~~ the member received during the 12-month period before the date of the member's death, if the member served 12 months or more before the date of the member's death;

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

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

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

* HB 3188 changes (marked but not highlighted) with added definition of KLOD and clarification that cancer/covid not included.

KLOD DEATH BENEFIT (6.03)

OPTION 2*

SECTION 6.03. DEATH BENEFIT ANNUITY FOR SPOUSE AND CHILDREN OF MEMBER KILLED IN THE LINE OF DUTY.

(a) The death benefit annuity of a surviving spouse and any dependent child of a member of the fund who is killed in the line of duty is governed by this section.

(1) A member of the fund is considered to have been killed in the line of duty if the member's death directly resulted from Traumatic Injury sustained while engaging in law enforcement activity, fire suppression, rescue, hazardous material response, emergency medical services, disaster relief or other emergency response activity, or simulated training thereof. A Traumatic Injury means severe physical injury of sudden onset and of a life-ending or life-threatening nature.

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

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

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

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

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

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

* HB 3188 changes (marked but not highlighted) with added definition of KLOD, no clarification regarding cancer/covid.

KLOD DEATH BENEFIT (6.03)

OPTION 3*

SECTION 6.03. DEATH BENEFIT ANNUITY FOR SPOUSE AND CHILDREN OF MEMBER KILLED IN THE LINE OF DUTY.

(a) The death benefit annuity of a surviving spouse and any dependent child of a member of the fund who is killed in the line of duty is governed by this section. A member of the fund who died as a result of cancer or COVID-19 is not considered to be killed in the line of duty under this section.

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

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

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

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

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

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

* HB 3188 changes (marked but not highlighted) with clarification that KLOD does not include cancer/COVID.

SLAYER PROVISION (6.15)

OPTION 1¹

SECTION 6.15. DENIAL OF BENEFITS: DEATH CAUSED BY SURVIVOR.

If a person is the principal or an accomplice in willfully bringing about the death of a member or beneficiary whose death would otherwise result in a benefit or benefit increase to the person, the person is not eligible for, or entitled to, that benefit or benefit increase. The determination of the board that a person willfully brought about the death must be made during a meeting of the board from a preponderance of the evidence presented. A determination by the board under this section is not controlled by any other finding in any other forum, regardless of whether the other forum considered the same or another standard of proof.

OPTION 2²

SECTION 6.15. DENIAL OF BENEFITS: DEATH CAUSED BY SURVIVOR.

(a) If a person is the principal or an accomplice in willfully bringing about the death of a member or beneficiary whose death would otherwise result in a benefit or benefit increase to the person, the person is not eligible for, or entitled to, that benefit or benefit increase. The determination of the board that a person willfully brought about the death must be made during a meeting of the board ~~from a preponderance of the evidence presented~~. A determination by the board under this section is not controlled by any other finding in any other forum, ~~regardless of whether the other forum considered the same or another standard of proof~~.

(b) A person who is determined to be ineligible or not entitled to a benefit or benefit increase under subsection (a) will be considered as having pre-deceased the member or beneficiary for purposes of Sections 6.02 and 6.03 of this Act.

OPTION 3³

SECTION 6.15. DENIAL OF BENEFITS: DEATH CAUSED OR ABETTED BY SURVIVOR.

(a) If a person is the principal or an accomplice in willfully bringing about the death of a member or beneficiary whose death would otherwise result in a benefit or benefit increase to the person, the person is not eligible for, or entitled to, that benefit or benefit increase. The determination of the board that a person willfully brought about the death, or was an accomplice in bringing about the death, must be made during a meeting of the board ~~from a preponderance of the evidence presented~~. A determination by the board under this section is not controlled by any other finding in any other forum, ~~regardless of whether the other forum considered the same or another standard of proof~~.

(b) A person who is determined to be ineligible or not entitled to a benefit or benefit increase under subsection (a) will be considered as having pre-deceased the member or beneficiary for purposes of Sections 6.02 and 6.03 of this Act.

¹ HB 3188 Language

² Removes preponderance of evidence and reference to other forum; ensures dependent child still receives benefit.

³ Same as Option 2 but conforming change in title and second sentence (accomplice language).