

By: Kuempel

H.B. No. 1984

Substitute the following for H.B. No. 1984:

By: Grusendorf

C.S.H.B. No. 1984

A BILL TO BE ENTITLED

AN ACT

1
2 relating to participation and credit in, contributions to, and
3 benefits and administration of the Texas County and District
4 Retirement System.

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

6 SECTION 1. Sections 841.001(6), (7), (8), (18), (19), (20),
7 and (21), Government Code, are amended to read as follows:

8 (6) "Compensation" means the payments on which
9 contributions by an employee to the retirement system are based
10 that do not exceed the amount established by board rule, which may
11 not exceed the limit [~~\$150,000 in a calendar year, indexed in the~~
12 ~~same manner as is~~] provided by Section 401(a)(17) of the Internal
13 Revenue Code of 1986 (26 U.S.C. Section 417), as indexed in the
14 manner provided by that section, and that are made to an employee of
15 a participating subdivision by the subdivision for service,
16 including nonmonetary compensation, the value of which is
17 determined by the governing body of the subdivision. The term does
18 not include workers' compensation benefits received by a member
19 under Section 504.011, Labor Code.

20 (7) "Credited service" means the number of months of
21 prior and current service ascribed to a member in the retirement
22 system [~~or included in a prior service certificate in effect for the~~
23 ~~member~~].

24 (8) "Employee" means a person, other than a person

1 determined by a subdivision to be a temporary employee, who is
2 certified by a subdivision as being employed in, or elected or
3 appointed to, a position or office in the subdivision that normally
4 requires services from the person for not less than 900 hours a year
5 and for which the person is compensated by the subdivision. The
6 term includes a person employed on a probationary basis, except as
7 provided by Section 842.107.

8 (18) "Supplemental death benefit program" means the
9 voluntary, employer-funded optional death benefit program
10 established under Subchapter F, Chapter 844.

11 (19) [~~"Temporary employee" means a person who is~~
12 ~~scheduled to hold a position for less than six months and only:~~

13 [~~(A) until another person can be hired,~~

14 [~~(B) for the duration of a project scheduled to~~
15 ~~end less than six months after the date of hiring,~~

16 [~~(C) until a specific date less than six months~~
17 ~~after the date of hiring, or~~

18 [~~(D) until a volume of work is completed that is~~
19 ~~estimated to be completed in less than six months after the date of~~
20 ~~hiring.~~

21 [~~(20) "Supplemental death benefit program" means the~~
22 ~~voluntary, employer-funded optional death benefits program under~~
23 ~~Subchapter F, Chapter 844. The program constitutes "group-term~~
24 ~~life insurance purchased for employees" as described by Section 79~~
25 ~~of the Internal Revenue Code of 1986.~~

26 [~~(21)~~] "Vested member" means a member who may withdraw
27 from employment with all participating subdivisions, leave the

1 member's accumulated contributions on deposit with the retirement
2 system, and, on meeting the age and length-of-service requirements
3 for service retirement, file an application for retirement and
4 begin to receive a service retirement annuity.

5 SECTION 2. Sections 842.008(a), (f), and (i), Government
6 Code, are amended to read as follows:

7 (a) A participating subdivision may not terminate
8 participation in the retirement system as long as it has any
9 liabilities resulting from the participation of current or former
10 employees, but it may elect to discontinue enrolling in the
11 retirement system nonmembers whose employment or reemployment
12 begins after the effective date of an election to discontinue
13 enrollment. If the subdivision has an annually determined
14 contribution rate plan, the subdivision must elect to contribute in
15 all future years in which the allocation described by Subsection
16 (b) is necessary at a rate that is either the rate being paid at the
17 time of the election to discontinue enrollment or a rate that is [~~an~~
18 ~~integer percent~~] greater than the rate being paid at the time of the
19 election to discontinue enrollment. The effective date of the
20 election to discontinue enrollment is January 1 of the year
21 following the year in which the election by the subdivision is made.

22 (f) The governing body of a [~~If the~~] participating
23 subdivision that is not enrolling new members in accordance with
24 Subsection (e) [~~, the annuities and credits described by Subsections~~
25 ~~(c) and (d)~~] may not authorize a change in a provision of the
26 subdivision's plan, except that the governing body may authorize
27 the adoption of an option described by this subtitle:

1 (1) to the extent otherwise required by this subtitle;

2 or

3 (2) if the board of trustees determines that the
4 adoption of the option is consistent with the subdivision's
5 decision to discontinue enrolling new members and does not impair
6 the subdivision's ability to fund its obligations under this
7 subtitle within the applicable period provided by this subtitle ~~[be~~
8 ~~increased to a level that exceeds the greater of the level in effect~~
9 ~~immediately before the time Subsection (b) became applicable or the~~
10 ~~level in effect on December 31, 1992]~~.

11 (i) Before or after the initial allocation under Subsection
12 (b) is determined, the subdivision may elect to contribute a
13 lump-sum deposit or may elect to contribute in all future years that
14 the allocation described by Subsection (b) is necessary at a rate
15 that is ~~[an integer percent]~~ greater than the rate being paid at the
16 time of the election ~~[of the integer percent]~~, notwithstanding the
17 provisions of Section 844.605 or 844.703.

18 SECTION 3. Sections 842.009(b) and (g), Government Code,
19 are amended to read as follows:

20 (b) If the subdivision has an annually determined
21 contribution rate plan, the subdivision must elect to contribute in
22 all future years in which the allocation described by Subsection
23 (a) is necessary at a rate that is either the rate being paid at the
24 time Subsection (a) is applied or a rate that is ~~[an integer~~
25 ~~percent]~~ greater than the rate being paid at the time Subsection (a)
26 is applied.

27 (g) Before or after the initial allocation under Subsection

1 (a) is determined, the subdivision may elect to contribute a
2 lump-sum deposit or may elect to contribute in all future years that
3 the allocation described by Subsection (a) is necessary at a rate
4 that is [~~an integer percent~~] greater than the rate being paid at the
5 time of the election [~~of the integer percent~~], notwithstanding the
6 provisions of Section 844.605 and Section 844.703.

7 SECTION 4. Section 842.010(e), Government Code, is amended
8 to read as follows:

9 (e) The governing body of a [~~If the~~] participating
10 subdivision that is not enrolling new members in accordance with
11 Subsection (d) [~~, the annuities and credits described by Subsections~~
12 ~~(b) and (c)~~] may not authorize a change in a provision of the
13 subdivision's plan, except that the governing body may authorize
14 the adoption of an option described by this subtitle:

15 (1) to the extent otherwise required by this subtitle;

16 or

17 (2) if the board of trustees determines that the
18 adoption of the option is consistent with the subdivision's
19 decision to discontinue enrolling new members and does not impair
20 the subdivision's ability to fund its obligations under this
21 subtitle within the applicable period provided by this subtitle [~~be~~
22 ~~increased to a level that exceeds the level in effect immediately~~
23 ~~before Subsection (a) became applicable~~].

24 SECTION 5. Section 842.101(b), Government Code, is amended
25 to read as follows:

26 (b) A person to whom Subsection (a)(1) applies becomes a
27 member of the retirement system on the date the subdivision's

1 participation becomes effective, and a person to whom Subsection
2 (a)(2) or (a)(3) applies becomes a member of the retirement system
3 on the first day of the person's employment. [~~A person who
4 heretofore became a member pursuant to Subsection (a)(2) on the
5 first day of the month subsequent to the month of employment and who
6 did not receive credit for the initial month of employment may
7 obtain credit for the month preceding the date of membership by
8 depositing with the system for credit to the member's individual
9 account the amount that would have been deducted as the member
10 contribution had the person become a member on the date of
11 employment.~~]

12 SECTION 6. Section 842.108(b), Government Code, is amended
13 to read as follows:

14 (b) A member who has separated from employment with a
15 participating subdivision may submit an application to withdraw the
16 member's accumulated contributions attributable to service with
17 that subdivision. A withdrawal cancels the person's credited
18 service and service credit attributable to service with that
19 subdivision on the date the retirement system makes payment of any
20 portion of the member's accumulated contributions. Credited
21 service that has been canceled may not be used to determine
22 eligibility for a later retirement unless it is reestablished under
23 Section 803.203, 843.003, or 843.0031.

24 SECTION 7. Section 842.112, Government Code, is amended to
25 read as follows:

26 Sec. 842.112. CORRECTION OF ERRORS. (a) The retirement
27 system may correct any administrative or operational error by any

1 appropriate means, taking into account any applicable Internal
2 Revenue Service guidelines [~~If, as a result of a reporting error on~~
3 ~~the part of a participating subdivision, a person has not received~~
4 ~~credited service or current service credit or has received less~~
5 ~~than the correct amount of current service credit for months in~~
6 ~~which the person performed service as an employee of the~~
7 ~~subdivision, the retirement system shall correct the error as~~
8 ~~authorized by this section].~~

9 (b) [~~Except as provided by Subsection (j) or Section~~
10 ~~843.005, a correction may not be made as to current service~~
11 ~~performed, or current service credit that should have been~~
12 ~~received, more than four years before the date an application, on~~
13 ~~forms approved by the retirement system's board of trustees, for~~
14 ~~the correction is received by the retirement system.~~

15 [~~(c) Except as provided by Subsection (i), a correction may~~
16 ~~not be made unless the retirement system receives, in addition to~~
17 ~~the application, each of the items required under Subsections (d),~~
18 ~~(e), and (f), and one of the following:~~

19 [~~(1) a written agreement, approved by the~~
20 ~~subdivision's governing body, stating that an error has occurred~~
21 ~~and that the subdivision has agreed to correct that error,~~

22 [~~(2) a final judgment by a court of competent~~
23 ~~jurisdiction in proceedings to which the subdivision was a party,~~
24 ~~ordering that the subdivision correct the error, or~~

25 [~~(3) an order in an administrative proceeding to which~~
26 ~~the subdivision was a party, directing that the subdivision correct~~
27 ~~the error, that is no longer subject to appeal.~~

1 ~~[(d) A correction may not be made unless the retirement~~
2 ~~system receives a supplemental report properly signed on behalf of~~
3 ~~the subdivision showing the corrections to credited service or~~
4 ~~current service credit of the person.]~~

5 ~~[(e) A correction may not be made unless the retirement~~
6 ~~system receives payment from the person seeking the correction in~~
7 ~~an amount equal to the contributions or additional contributions~~
8 ~~the person would have made to the system if the service had been~~
9 ~~correctly reported to the retirement system.]~~

10 ~~[(f) A correction may not be made unless the retirement~~
11 ~~system receives payment from the subdivision in an amount equal to~~
12 ~~the additional contribution that the subdivision should have paid~~
13 ~~to the retirement system based on the additional credited service~~
14 ~~or current service credit.]~~

15 ~~[(g) A subdivision that is the subject of an agreement,~~
16 ~~judgment, or order described by Subsection (c) shall file the~~
17 ~~supplemental report and submit the payments described by this~~
18 ~~section within 30 days after the date the subdivision is notified in~~
19 ~~writing by the retirement system that those items should be sent to~~
20 ~~the retirement system.]~~

21 ~~[(h) If, as a result of a reporting error on the part of a~~
22 ~~participating subdivision, a person has not received prior service~~
23 ~~credit, on written application to the retirement system,~~
24 ~~accompanied by evidence of the prior service satisfactory to the~~
25 ~~retirement system, the retirement system shall correct the error if~~
26 ~~the retirement system receives the person's written application for~~
27 ~~the correction within four years after the later of the date the~~

1 ~~subdivision began participation or the person first became a member~~
2 ~~of the retirement system.~~

3 ~~[(i) The correction of an error affecting not more than~~
4 ~~three monthly reports within a period of not more than three~~
5 ~~consecutive months may be made on the basis of the application alone~~
6 ~~if the application, the supplemental report, and the payment~~
7 ~~required by this section are received by the retirement system~~
8 ~~within six months after the first day of the first month for which~~
9 ~~the correction is being made.~~

10 ~~[(j)]~~ If, as a result of a suit against a participating
11 subdivision in a court of competent jurisdiction or as a result of a
12 complaint or grievance against a participating subdivision filed
13 with the United States Equal Employment Opportunity Commission, the
14 Commission on Human Rights, or a county civil service commission, a
15 judgment or order is issued or a settlement agreement is executed,
16 the terms of which require that an employee receive back pay or that
17 a person be employed or reemployed for a specified period and
18 require that the person receive service credit toward retirement
19 based on the back pay or both service credit and credited service
20 for the specified period of employment or reemployment, on written
21 application to the retirement system, the system shall grant the
22 service credit and credited service if:

23 (1) the judgment or order has become final and is no
24 longer subject to appeal;

25 (2) a certified copy of the judgment, order, or
26 settlement agreement accompanies the application;

27 (3) the retirement system receives payment on behalf

1 of the person in an amount equal to the contributions the person
2 would have made to the system if the back pay or additional service
3 had been reported to the system; and

4 (4) the retirement system receives payment from the
5 subdivision in an amount equal to the additional contributions that
6 the subdivision would have made to the system for the additional
7 service credit.

8 ~~[(k) If a person to whom Subsection (j) applies has
9 forfeited service credit as a result of withdrawal of contributions
10 during the time between the termination of employment and the date
11 of reinstatement, the person is eligible to reestablish credit
12 under Section 843.003. For purposes of this subsection, forfeited
13 credit based on service performed for more than one participating
14 subdivision is considered to have been credit for service performed
15 only for the subdivision that is subject to the judgment, order, or
16 settlement agreement, except that credit may not be reinstated
17 under this subsection for service performed after the date of the
18 termination of employment that resulted in the judgment, order, or
19 settlement agreement.]~~

20 SECTION 8. The heading to Section 843.003, Government Code,
21 is amended to read as follows:

22 Sec. 843.003. REESTABLISHING CREDITED SERVICE AND SERVICE
23 CREDIT PREVIOUSLY FORFEITED.

24 SECTION 9. Sections 843.003(b) and (d), Government Code,
25 are amended to read as follows:

26 (b) A member eligible to reestablish credit under this
27 section is one who is[+]

1 ~~[(1) was]~~ a member ~~[on the effective date of an order~~
2 ~~made under Subsection (a); and~~

3 ~~[(2) has, since resuming membership, at least 24~~
4 ~~consecutive months of service]~~ as an employee of the subdivision on
5 the effective date of an order authorized by the subdivision under
6 Subsection (a) [for which the order was made].

7 (d) A governing body may not make an order under Subsection
8 (a) ~~[after 1991]~~ except on the terms provided by Subchapter H, ~~[of]~~
9 Chapter 844.

10 SECTION 10. Subchapter A, Chapter 843, Government Code, is
11 amended by adding Section 843.0031 to read as follows:

12 Sec. 843.0031. ALTERNATIVE REESTABLISHMENT OF CREDITED
13 SERVICE PREVIOUSLY FORFEITED; OPTION TO PAY LUMP-SUM AMOUNT. (a) A
14 member who has withdrawn contributions from the retirement system
15 and who subsequently resumes employment with a subdivision may by
16 application to the system at any time before retirement reestablish
17 forfeited prior and current credited service.

18 (b) A member who has withdrawn contributions from the
19 retirement system and who subsequently resumes employment with a
20 subdivision may at any time before retirement pay to the system a
21 lump sum in any amount that does not exceed the actuarial present
22 value of the additional benefits that would have been attributable
23 to the withdrawn contributions.

24 (c) An amount paid under Subsection (b) is not subject to
25 employer matching contributions, even if the member would otherwise
26 be eligible under an order adopted under Section 843.003.

27 SECTION 11. Section 843.102, Government Code, is amended by

1 adding Subsection (c) to read as follows:

2 (c) A person who has withdrawn contributions from an account
3 for service for a subdivision and who subsequently resumes
4 employment with the subdivision is not eligible to receive service
5 credit under this section for prior service for the subdivision
6 that was not established before the person withdrew the
7 contributions.

8 SECTION 12. Section 843.103, Government Code, is amended to
9 read as follows:

10 Sec. 843.103. STATEMENT OF PRIOR SERVICE. A [~~Before the~~
11 ~~fifth anniversary of the date a~~] member [~~becomes~~] eligible to
12 receive [~~claim~~] prior service credit [~~, a member claiming credit for~~
13 ~~prior service~~] shall claim the credit by filing [~~file~~] a detailed
14 statement of the service with the treasurer or other disbursing
15 officer of the subdivision for which the service was performed. The
16 statement must be filed before the fifth anniversary of the date the
17 person becomes a member as an employee of the subdivision.

18 SECTION 13. Section 843.201(d), Government Code, is amended
19 to read as follows:

20 (d) Allocated prior service credits are allowable for a
21 subdivision only if:

22 (1) the subdivision has adopted the provisions for an
23 annually determined contribution rate plan under Subchapter H,
24 Chapter 844; or

25 (2) the retirement system's actuary determines that
26 the subdivision's unfunded actuarial accrued liability
27 amortization period will be less than 20 [~~25~~] years, if the

1 subdivision has not adopted the provisions of Subchapter H, Chapter
2 844.

3 SECTION 14. Section 843.203(a), Government Code, is amended
4 to read as follows:

5 (a) The governing body of a public employer [~~subdivision~~]
6 that has taken over the functions [~~facilities of a hospital,~~
7 ~~utility, or other public facility~~] formerly performed [~~operated~~] by
8 a [~~another~~] participating subdivision may assume in whole or in
9 part the obligations that the subdivision [~~former employer~~] had
10 undertaken under this subtitle by reason of service performed by
11 members of the system [~~who become employees of the subdivision~~
12 ~~seeking to participate in the system~~]. A public employer
13 [~~subdivision participating in the system~~] that could have assumed
14 the obligations of another subdivision had this section been in
15 effect at the time the public employer took over the functions of
16 the participating subdivision [~~of participation~~] may assume in
17 whole or in part the obligations that the subdivision that was the
18 first employer had undertaken by reason of service rendered by
19 members of the system [~~who became employees of the subdivision that~~
20 ~~is the second employer~~]. The governing body of a public employer
21 [~~subdivision~~] that assumes the obligations of a [~~another~~]
22 subdivision under this section may make a lump-sum deposit to the
23 appropriate account [~~of the other subdivision~~] in the retirement
24 system, in an amount computed by the retirement system's actuary,
25 on terms approved by the board of trustees and [~~that are~~] agreed to
26 in writing by the former employer and the assuming employer, if the
27 former employer exists, or by the assuming employer alone, if the

1 former employer does not exist [~~affected subdivisions and approved~~
2 ~~by the board of trustees~~]. Assumptions under this section must
3 [~~shall~~] be by written agreement between the affected existing
4 employers [~~subdivisions~~] and are subject to approval of the board
5 of trustees. The affected employers may amend an [~~An~~] agreement
6 under this section [~~may be amended~~] in writing [~~by the affected~~
7 ~~subdivisions~~] if the [~~amendment is approved by the~~] board of
8 trustees approves the amendment.

9 SECTION 15. Section 843.204(b), Government Code, is amended
10 to read as follows:

11 (b) The governing body of a subdivision may adopt the
12 provisions of this section:

13 (1) on the terms provided by Subchapter H, [~~of~~]
14 Chapter 844; or

15 (2) if the board of trustees determines that,
16 according to the computations of the actuary approved by the board
17 of trustees, the adoption would not impair the ability of the
18 subdivision to fund all obligations against its account in the
19 subdivision accumulation fund before the 20th [~~25th~~] anniversary of
20 the subdivision's most recent actuarial valuation date.

21 SECTION 16. Section 843.401, Government Code, is amended to
22 read as follows:

23 Sec. 843.401. CURRENT SERVICE GENERALLY. Current service
24 [~~Service that~~] is service performed by [~~while a member as~~] an
25 employee of a participating subdivision while a member of the
26 retirement system and [~~is~~] credited as provided under this section.
27 The [~~in the~~] retirement system shall grant one month of current

1 service for each month for which the required contributions are
2 made, reported, and certified by the [~~member and the~~] employing
3 subdivision.

4 SECTION 17. Section 843.403(c), Government Code, is amended
5 to read as follows:

6 (c) The multiple matching credit of a member is an amount
7 equal to a percentage of the contributions made by the member to the
8 retirement system during a calendar year. The percentage is 0
9 percent until a greater percentage is adopted as provided by
10 Section 843.703 or, for a subdivision whose participation in the
11 retirement system began after October 31, 1980, unless a greater
12 percentage is adopted by its governing body before the first
13 anniversary of the subdivision's effective date of retirement
14 system participation, after the actuary has determined and
15 certified that the greater percentage would not impair the ability
16 of the subdivision to amortize, before the 20th [~~25th~~] anniversary
17 of the participation date, all obligations that are charges against
18 its account in the subdivision accumulation fund. A multiple
19 matching credit includes any portion of a current service credit in
20 effect on January 1, 1978, that exceeds the member's current
21 service credit determined under Subsection (b).

22 SECTION 18. Section 843.601(c), Government Code, is amended
23 to read as follows:

24 (c) The governing body of a participating subdivision also
25 may, on the terms provided by Section 844.704, authorize the
26 establishment of credited service [~~credit~~] for current service in
27 the retirement system for qualified military service as provided by

1 this subsection. Qualified military service includes military
2 service before becoming an employee of the subdivision. A member
3 eligible to establish credited service for current service [~~credit~~]
4 under this subsection is one who has credited service in the
5 retirement system for at least the minimum period required to
6 receive a service retirement annuity at the age of 60 from the
7 subdivision from which credit under this subsection is sought
8 [~~performed as an employee at least 10 years of service that is~~
9 ~~credited in the retirement system~~] and who does not receive and is
10 not eligible to receive federal retirement payments based on 20
11 years or more of active federal military duty or its equivalent. An
12 eligible member may establish credited service for current service
13 [~~credit~~] under this subsection by filing an application with the
14 retirement system [~~an application for the credit~~].

15 SECTION 19. Section 844.009(a), Government Code, is amended
16 to read as follows:

17 (a) The governing body of a contributing subdivision with a
18 member contribution rate of at least four percent that has not
19 elected to discontinue enrolling employees may adopt the provisions
20 of this section:

- 21 (1) on the terms provided by Subchapter H; or
22 (2) if the board of trustees determines that, based on
23 computations by the retirement system's actuary, the adoption would
24 not impair the ability of the subdivision to fund all obligations
25 against its account in the subdivision accumulation fund before the
26 20th [~~25th~~] anniversary of the subdivision's most recent actuarial
27 valuation date.

1 SECTION 20. Subchapter A, Chapter 844, Government Code, is
2 amended by adding Section 844.010 to read as follows:

3 Sec. 844.010. CERTAIN BENEFICIARY DESIGNATIONS. (a) A
4 beneficiary designation that names a former spouse as beneficiary
5 is invalid for purposes of this subtitle unless the designation:

6 (1) is made or confirmed in writing after the date of
7 divorce; or

8 (2) was made by a retiree who, at the time of divorce,
9 is receiving payments under an optional service or disability
10 retirement with payments to continue to the beneficiary for the
11 beneficiary's life.

12 (b) In addition to the authority provided by Section
13 804.051, the board of trustees may adopt rules to require consent of
14 a member's spouse to:

15 (1) the member's designation of a beneficiary who is
16 not the member's spouse;

17 (2) the member's selection of an optional form of
18 retirement benefit; or

19 (3) the member's election of a withdrawal of
20 contributions.

21 (c) A benefit payable under this subtitle is not subject to
22 a will, other testamentary document, or the law of intestacy to the
23 extent that the member, retiree, or other former member has a
24 different beneficiary under the retirement system than under the
25 testamentary document or law of intestacy.

26 SECTION 21. Section 844.104(c), Government Code, is amended
27 to read as follows:

1 (c) An eligible person may select any of the following
2 optional annuities that are the actuarial equivalent of the annuity
3 to which the person is entitled and that provide that:

4 (1) after the retiree's death, the reduced annuity is
5 payable throughout the life of a person designated by the retiree;

6 (2) after the retiree's death, one-half of the reduced
7 annuity is payable throughout the life of a person designated by the
8 retiree;

9 (3) if the retiree dies before 60 monthly annuity
10 payments have been made, the remainder of the 60 payments are
11 payable to the retiree's beneficiary or, if one does not exist, to
12 the retiree's spouse or, if no surviving spouse exists, to the
13 retiree's estate;

14 (4) if the retiree dies before 120 monthly annuity
15 payments have been made, the remainder of the 120 payments are
16 payable to the retiree's beneficiary or, if one does not exist, to
17 the retiree's spouse or, if no surviving spouse exists, to the
18 retiree's estate;

19 (5) after the retiree's death, the reduced annuity is
20 payable throughout the life of a person designated by the retiree,
21 except that if the beneficiary predeceases the retiree, the annuity
22 payable throughout the remaining life of the retiree is the annuity
23 that would be payable if the retiree had chosen a standard service
24 retirement annuity;

25 (6) after the retiree's death, three-fourths of the
26 reduced annuity is payable throughout the life of a person
27 designated by the retiree; or

1 (7) if the retiree dies before 180 monthly annuity
2 payments have been made, the remainder of the 180 payments are
3 payable to the retiree's beneficiary or, if one does not exist, to
4 the retiree's spouse or, if no surviving spouse exists, to the
5 retiree's estate.

6 SECTION 22. Section 844.208(b), Government Code, is amended
7 to read as follows:

8 (b) The amount of annuity increase under this section is
9 computed as the sum of the basic and supplemental annuities on the
10 effective date of retirement of the person on whose service the
11 annuities are based or, if the person's current annuity has been
12 increased under Section 844.006(c) or (d), 844.104(c)(5), or
13 844.305(c)(5), the sum of the basic and supplemental annuities is
14 computed as if the person had selected a standard service or
15 disability retirement annuity on the person's effective date of
16 retirement, multiplied by:

17 (1) the percentage change in the Consumer Price Index
18 for All Urban Consumers, published by the Bureau of Labor
19 Statistics of the United States Department of Labor, from December
20 of the year immediately preceding the effective date of the
21 person's retirement to the December that is 13 months before the
22 month in which the effective date of the order or resolution
23 providing the increase occurs; and

24 (2) a fraction, specified by the governing body in the
25 order or resolution, that is not less than 30 percent nor more than
26 80 percent and is a multiple of 10 percent.

27 SECTION 23. Section 844.305(c), Government Code, is amended

1 to read as follows:

2 (c) An eligible person may select any of the following
3 optional annuities that are the actuarial equivalent of the annuity
4 to which the person is entitled and that provide that:

5 (1) after the retiree's death, the reduced annuity is
6 payable throughout the life of a person designated by the retiree;

7 (2) after the retiree's death, one-half of the reduced
8 annuity is payable throughout the life of a person designated by the
9 retiree;

10 (3) if the retiree dies before 60 monthly annuity
11 payments have been made, the remainder of the 60 payments are
12 payable to the retiree's beneficiary or, if one does not exist, to
13 the retiree's spouse or, if no surviving spouse exists, to the
14 retiree's estate;

15 (4) if the retiree dies before 120 monthly annuity
16 payments have been made, the remainder of the 120 payments are
17 payable to the retiree's beneficiary or, if one does not exist, to
18 the retiree's spouse or, if no surviving spouse exists, to the
19 retiree's estate;

20 (5) after the retiree's death, the reduced annuity is
21 payable throughout the life of a person designated by the retiree,
22 except that if the beneficiary predeceases the retiree, the annuity
23 payable throughout the remaining life of the retiree is the annuity
24 that would be payable if the retiree had chosen a standard service
25 retirement annuity;

26 (6) after the retiree's death, three-fourths of the
27 reduced annuity is payable throughout the life of a person

1 designated by the retiree; or

2 (7) if the retiree dies before 180 monthly annuity
3 payments have been made, the remainder of the 180 payments are
4 payable to the retiree's beneficiary or, if one does not exist, to
5 the retiree's spouse or, if no surviving spouse exists, to the
6 retiree's estate.

7 SECTION 24. Section 844.504, Government Code, is amended to
8 read as follows:

9 Sec. 844.504. RETIREE SUPPLEMENTAL DEATH BENEFIT. If a
10 retiree dies who was receiving a retirement annuity based on
11 service for a subdivision that has elected to provide, and
12 continues to provide, postretirement supplemental death benefits,
13 a lump-sum supplemental death benefit is payable from the fund in
14 the amount of \$5,000. [~~If a retiree dies who was receiving
15 retirement annuities based on service for more than one subdivision
16 that has elected to provide, and continues to provide,
17 postretirement supplemental death benefits, the financing of the
18 lump-sum benefit will be prorated among those subdivisions. If a
19 person dies while payment of a retirement annuity to that person is
20 suspended as a result of Section 842.110, the supplemental death
21 benefit under this section will be paid if it would have been
22 payable except for the suspension, unless a supplemental death
23 benefit is payable under Section 844.503 as a result of the member's
24 death.~~]

25 SECTION 25. Sections 844.605(a), (b), and (d), Government
26 Code, are amended to read as follows:

27 (a) If the actuary determines that the obligations of a

1 participating subdivision to the subdivision accumulation fund
2 cannot be amortized within a period of 30 [~~40~~] years or determines
3 that subdivision contributions at the rate in accordance with
4 Section 845.404(a)(2) and any supplemental contribution rate
5 adopted by the subdivision under this section are inadequate to
6 fund all obligations charged against the subdivision's account in
7 the subdivision accumulation fund, the governing body of the
8 subdivision may by order or resolution provide additional
9 contributions by adopting a supplemental contribution rate under
10 this section to reduce the funding period.

11 (b) A supplemental contribution rate is the rate of
12 contribution by a subdivision to its account in the subdivision
13 accumulation fund, in addition to the contributions provided under
14 Section 845.404(a)(2), that the actuary determines and certifies is
15 required, together with the contributions provided under Section
16 845.404(a)(2), to amortize the obligations of the subdivision to
17 the subdivision accumulation fund within a period of 20 [~~25~~] years.
18 A supplemental contribution rate may exceed the rate determined by
19 the actuary.

20 (d) A supplemental contribution rate adopted by the
21 governing body of a subdivision expires at the end of the 20th
22 [~~25th~~] calendar year after its effective date, or at the end of any
23 earlier calendar year in which the actuary determines and
24 certifies, after the annual actuarial valuation under Section
25 845.206, that all obligations of the subdivision to the subdivision
26 accumulation fund can be amortized within a period of 20 [~~25~~] years
27 on the basis of contributions provided by the subdivision under

1 Section 845.404(a)(2).

2 SECTION 26. Sections 844.606(b), (d), and (e), Government
3 Code, are amended to read as follows:

4 (b) The actuary shall determine what lower percentage to be
5 used in determining multiple matching credits under Section
6 843.403(c) for contributions made after the effective date of the
7 reduction is required to amortize the obligations of the
8 subdivision to the subdivision accumulation fund within a period of
9 20 [~~25~~] years.

10 (d) The governing body of a participating subdivision may
11 reduce the percentage used in determining multiple matching credits
12 under Section 843.403(c) to zero percent for contributions made
13 after the effective date of the reduction, even if the resulting
14 amortization period exceeds 20 [~~25~~] years.

15 (e) The governing body of a participating subdivision may
16 reduce the percentage used in determining multiple matching credits
17 in conjunction with the adoption of a supplemental contribution
18 rate under Section 844.605 in order to amortize the obligations of
19 the subdivision to the subdivision accumulation fund within a
20 period of 20 [~~25~~] years.

21 SECTION 27. Section 844.608(b), Government Code, is amended
22 to read as follows:

23 (b) If the actuary determines that, despite all required
24 decreases described by Section 844.607, the obligations of a
25 participating subdivision to the subdivision accumulation fund
26 cannot be amortized within a period of 20 [~~25~~] years, the retirement
27 system shall reduce the rate of member contributions to such lower

1 rate authorized by this section as, in the opinion of the actuary,
2 is required for the obligations of the subdivision to the
3 subdivision accumulation fund to be able to be amortized within a
4 period of 20 [~~25~~] years. At the time the actuary determines that
5 the rate of employee contributions no longer must be reduced for the
6 obligations to be able to be amortized within 20 [~~25~~] years, the
7 retirement system shall reinstate the employee contribution rate to
8 the rate that was in effect at the time of the reduction, unless the
9 governing body of the subdivision has elected to change to some
10 other rate authorized by Section 845.402. Any change under this
11 section shall be made on January 1 of the year following the
12 applicable determination by the actuary.

13 SECTION 28. Sections 844.704(d) and (f), Government Code,
14 are amended to read as follows:

15 (d) The governing body of a subdivision that has adopted or
16 is adopting the plan provisions of this subchapter may adopt or
17 authorize:

18 (1) an increase in retirement annuities under Section
19 844.209;

20 (2) an increase in retirement annuities under Section
21 844.208;

22 (3) the reestablishment of credited service
23 previously forfeited under Section 843.003;

24 (4) the establishment of credited service for military
25 service under Section 843.601(c);

26 (5) [~~the reduction in the credited service requirement~~
27 ~~for military service under Section 843.601(g),~~

1 ~~[(6)]~~ the establishment of premembership credited
2 service for overage employees under Section 843.204;

3 (6) ~~[(7)]~~ the benefit eligibility plan described by
4 Section 844.210, 844.211, or 844.212; or

5 (7) ~~[(8)]~~ the partial lump-sum distribution on
6 service retirement under Section 844.009.

7 (f) An order or resolution under this section must be filed
8 with the retirement system not later than December 15 of the year
9 preceding the year in which it will take effect and may not take
10 effect until the order or resolution is approved by the board of
11 trustees as meeting the requirements of this section. After
12 approval by the board, an order or resolution may take effect only
13 on January 1 of a year, except that an order or resolution for a
14 subdivision that begins participation after January 1, 1992, may
15 take effect on the date the subdivision begins participation.

16 SECTION 29. Section 845.003, Government Code, is amended to
17 read as follows:

18 Sec. 845.003. ELIGIBILITY. (a) To be eligible to serve as
19 a trustee a person must be:

20 (1) a member of the retirement system~~[-]~~ and

21 ~~[(2)]~~ an employee of a participating subdivision; or

22 (2) a retiree of the retirement system.

23 (b) If a person serving as a trustee ceases to meet an
24 eligibility requirement under Subsection (a) ~~[be an employee of a~~
25 ~~participating subdivision or fails to attend four consecutive~~
26 ~~regular meetings of the board of trustees]~~, the person may not act
27 as a trustee and shall vacate the office of trustee.

1 (c) A person serving as trustee who fails to attend four
2 consecutive regular meetings of the board of trustees may not act as
3 a trustee and is considered to have vacated the office of trustee.

4 SECTION 30. Section 845.007(a), Government Code, is amended
5 to read as follows:

6 (a) The board of trustees shall hold four regular meetings
7 [~~in March, June, September, and December of~~] each year and special
8 meetings when called by the director.

9 SECTION 31. Sections 845.309(b) and (e), Government Code,
10 are amended to read as follows:

11 (b) As of [~~On~~] December 31 of each year, the
12 nondistributable income account will be adjusted by the net change
13 in carrying value necessary to value at market all domestic,
14 fixed-income securities owned by the retirement system as part of a
15 passively managed, long-term portfolio.

16 (e) As of [~~On~~] December 31 of each year, the amount
17 remaining in the distributable income account and the investment
18 expenses account shall be distributed in the manner prescribed by
19 this subtitle.

20 SECTION 32. Section 845.315(a), Government Code, is amended
21 to read as follows:

22 (a) As of [~~On~~] December 31 of each year and after the balance
23 of the investment expenses account has been transferred to the
24 distributable income account, the board of trustees shall transfer
25 from the distributable income account of the interest fund the
26 following amounts:

27 (1) to the current service annuity reserve fund,

1 interest on the mean amount in the current service annuity reserve
2 fund during that year;

3 (2) to the supplemental death benefits fund, interest
4 on the mean amount in the supplemental death benefits fund during
5 that year;

6 (3) to the general reserves account of the endowment
7 fund, a dollar amount determined by the board of trustees as
8 necessary to provide adequate funding of the endowment fund,
9 including provisions for all special needs, all contingencies,
10 replenishment of the amount transferred during the current year to
11 the employees saving fund for interest to retiring or deceased
12 members plus the matching amount transferred to the subdivision
13 accumulation fund, and funding of investment expenses and
14 administrative costs for the following year;

15 (4) to the employees saving fund, current interest on
16 the sum of the accumulated contributions in the employees saving
17 fund credited on January 1 of that year to all persons who are
18 members on December 31 of that year before any transfers for
19 retirement effective December 31 of that year are made; and

20 (5) to the subdivision accumulation fund, the
21 remaining balance of the distributable income account in the
22 interest fund after transfers provided for by Subdivisions (1),
23 (2), (3), and (4) have been made.

24 SECTION 33. Section 845.402(c), Government Code, is amended
25 to read as follows:

26 (c) The governing body of a participating subdivision may
27 reduce the rate of its member contributions effective on the first

1 day of any calendar year if, at least 90 days before the date of the
2 reduction, the subdivision has given written notice of the
3 reduction to the board of trustees and if the actuary determines
4 that the reduction would not impair the ability of the subdivision
5 to fund all obligations against its account in the subdivision
6 accumulation fund before the 20th [~~25th~~] anniversary of the
7 subdivision's most recent actuarial valuation date.

8 SECTION 34. Section 845.407, Government Code, is amended by
9 amending Subsection (a) and adding Subsection (e) to read as
10 follows:

11 (a) Except as provided by Subsections (c), ~~[and]~~ (d), and
12 (e), a participating subdivision that fails to provide the
13 information required by Section 845.403 or to pay all contributions
14 required by this subchapter to be made and remitted to the
15 retirement system not later than the 15th day of the month in which
16 they become due shall pay a penalty under this section. The penalty
17 for a past-due monthly remission is equal to interest on the
18 past-due amounts for each day past due at a nominal interest rate of
19 12 percent, plus a \$500 administrative fee. If the penalty is not
20 paid within three months after the date notice of the penalty has
21 been sent to the subdivision, the retirement system shall deduct
22 the penalty from the subdivision's account in the subdivision
23 accumulation fund. The interest portion of the penalty shall be
24 deposited by the retirement system in the distributable income
25 account of the interest fund. The administrative fee portion of the
26 penalty shall be deposited by the retirement system in the expense
27 fund.

1 (e) The retirement system may extend the due date provided
2 by this section if a subdivision applies for an extension before the
3 due date and the director determines that good cause exists for the
4 extension and that the need for the extension is not caused by
5 neglect, indifference, or lack of diligence.

6 SECTION 35. Subchapter F, Chapter 845, Government Code, is
7 amended by adding Sections 845.503 and 845.504 to read as follows:

8 Sec. 845.503. AUTHORITY TO RECOUP OR MAKE ADJUSTMENTS FOR
9 PAYMENTS MADE IN ERROR. (a) The retirement system may reduce
10 future payments of benefits based on the account of a member, a
11 retiree, or other former member to recoup an amount overpaid or
12 otherwise paid in error to or on the behalf of the member, retiree,
13 or other former member. If no future payments are due, the
14 retirement system may recover the overpayment in any manner that is
15 permitted for the collection of any other debt.

16 (b) The retirement system may not recover from a member,
17 retiree, or other former member any overpayment made more than
18 three years before the date the overpayment is discovered. This
19 subsection does not apply to an overpayment a reasonable person
20 should know the person is not entitled to receive.

21 (c) The retirement system may adjust amounts in a
22 subdivision's account in the subdivision accumulation fund to
23 correct an error related to the account.

24 Sec. 845.504. EXCESS BENEFIT PROGRAM. (a) If the board of
25 trustees determines that it is in the interest of the retirement
26 system and will benefit members and annuitants, the board by rule
27 may establish an excess benefits program for the payment of

1 benefits under Section 415(m) of the Internal Revenue Code of 1986,
2 and its subsequent amendments, that would otherwise be barred by
3 the limitation on benefits imposed by Section 415 of that code.

4 (b) Notwithstanding any other provision of this subtitle,
5 the board of trustees by rule may provide for the transfer of
6 contributions as part of the excess benefits program in a manner
7 consistent with a governmental excess benefit arrangement.

8 SECTION 36. Section 844.605(d), Government Code, as amended
9 by this Act, applies only to a supplemental contribution rate
10 adopted by a governing body of a subdivision on or after the
11 effective date of this Act.

12 SECTION 37. The following provisions of the Government Code
13 are repealed:

- 14 (1) Section 843.005;
- 15 (2) Section 843.106;
- 16 (3) Section 843.107; and
- 17 (4) Section 843.601(g).

18 SECTION 38. This Act takes effect January 1, 2004.