

1-1 By: Kuempel (Senate Sponsor - Armbrister) H.B. No. 1984
1-2 (In the Senate - Received from the House April 14, 2003;
1-3 April 15, 2003, read first time and referred to Committee on State
1-4 Affairs; May 15, 2003, reported favorably by the following vote:
1-5 Yeas 8, Nays 0; May 15, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to participation and credit in, contributions to, and
1-9 benefits and administration of the Texas County and District
1-10 Retirement System.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Sections 841.001(6), (7), (8), (18), (19), (20),
1-13 and (21), Government Code, are amended to read as follows:

1-14 (6) "Compensation" means the payments on which
1-15 contributions by an employee to the retirement system are based
1-16 that do not exceed the amount established by board rule, which may
1-17 not exceed the limit ~~[\$150,000 in a calendar year, indexed in the~~
1-18 ~~same manner as is]~~ provided by Section 401(a)(17) of the Internal
1-19 Revenue Code of 1986 (26 U.S.C. Section 417), as indexed in the
1-20 manner provided by that section, and that are made to an employee of
1-21 a participating subdivision by the subdivision for service,
1-22 including nonmonetary compensation, the value of which is
1-23 determined by the governing body of the subdivision. The term does
1-24 not include workers' compensation benefits received by a member
1-25 under Section 504.011, Labor Code.

1-26 (7) "Credited service" means the number of months of
1-27 prior and current service ascribed to a member in the retirement
1-28 system ~~[or included in a prior service certificate in effect for the~~
1-29 ~~member]~~.

1-30 (8) "Employee" means a person, other than a person
1-31 determined by a subdivision to be a temporary employee, who is
1-32 certified by a subdivision as being employed in, or elected or
1-33 appointed to, a position or office in the subdivision that normally
1-34 requires services from the person for not less than 900 hours a year
1-35 and for which the person is compensated by the subdivision. The
1-36 term includes a person employed on a probationary basis, except as
1-37 provided by Section 842.107.

1-38 (18) "Supplemental death benefit program" means the
1-39 voluntary, employer-funded optional death benefit program
1-40 established under Subchapter F, Chapter 844.

1-41 (19) ~~["Temporary employee" means a person who is~~
1-42 ~~scheduled to hold a position for less than six months and only:~~

1-43 ~~[(A) until another person can be hired,~~

1-44 ~~[(B) for the duration of a project scheduled to~~
1-45 ~~end less than six months after the date of hiring,~~

1-46 ~~[(C) until a specific date less than six months~~
1-47 ~~after the date of hiring, or~~

1-48 ~~[(D) until a volume of work is completed that is~~
1-49 ~~estimated to be completed in less than six months after the date of~~
1-50 ~~hiring.~~

1-51 ~~[(20) "Supplemental death benefit program" means the~~
1-52 ~~voluntary, employer-funded optional death benefits program under~~
1-53 ~~Subchapter F, Chapter 844. The program constitutes "group-term~~
1-54 ~~life insurance purchased for employees" as described by Section 79~~
1-55 ~~of the Internal Revenue Code of 1986.~~

1-56 ~~[(21)] "Vested member" means a member who may withdraw~~
1-57 ~~from employment with all participating subdivisions, leave the~~
1-58 ~~member's accumulated contributions on deposit with the retirement~~
1-59 ~~system, and, on meeting the age and length-of-service requirements~~
1-60 ~~for service retirement, file an application for retirement and~~
1-61 ~~begin to receive a service retirement annuity.~~

1-62 SECTION 2. Sections 842.008(a), (f), and (i), Government
1-63 Code, are amended to read as follows:

1-64 (a) A participating subdivision may not terminate

2-1 participation in the retirement system as long as it has any
 2-2 liabilities resulting from the participation of current or former
 2-3 employees, but it may elect to discontinue enrolling in the
 2-4 retirement system nonmembers whose employment or reemployment
 2-5 begins after the effective date of an election to discontinue
 2-6 enrollment. If the subdivision has an annually determined
 2-7 contribution rate plan, the subdivision must elect to contribute in
 2-8 all future years in which the allocation described by Subsection
 2-9 (b) is necessary at a rate that is either the rate being paid at the
 2-10 time of the election to discontinue enrollment or a rate that is [~~an~~
 2-11 ~~integer percent~~] greater than the rate being paid at the time of the
 2-12 election to discontinue enrollment. The effective date of the
 2-13 election to discontinue enrollment is January 1 of the year
 2-14 following the year in which the election by the subdivision is made.

2-15 (f) The governing body of a [~~If the~~] participating
 2-16 subdivision that is not enrolling new members in accordance with
 2-17 Subsection (e) [~~, the annuities and credits described by Subsections~~
 2-18 ~~(c) and (d)~~] may not authorize a change in a provision of the
 2-19 subdivision's plan, except that the governing body may authorize
 2-20 the adoption of an option described by this subtitle:

2-21 (1) to the extent otherwise required by this subtitle;

2-22 or

2-23 (2) if the board of trustees determines that the
 2-24 adoption of the option is consistent with the subdivision's
 2-25 decision to discontinue enrolling new members and does not impair
 2-26 the subdivision's ability to fund its obligations under this
 2-27 subtitle within the applicable period provided by this subtitle [~~be~~
 2-28 ~~increased to a level that exceeds the greater of the level in effect~~
 2-29 ~~immediately before the time Subsection (b) became applicable or the~~
 2-30 ~~level in effect on December 31, 1992]~~.

2-31 (i) Before or after the initial allocation under Subsection
 2-32 (b) is determined, the subdivision may elect to contribute a
 2-33 lump-sum deposit or may elect to contribute in all future years that
 2-34 the allocation described by Subsection (b) is necessary at a rate
 2-35 that is [~~an integer percent~~] greater than the rate being paid at the
 2-36 time of the election [~~of the integer percent~~], notwithstanding the
 2-37 provisions of Section 844.605 or 844.703.

2-38 SECTION 3. Sections 842.009(b) and (g), Government Code,
 2-39 are amended to read as follows:

2-40 (b) If the subdivision has an annually determined
 2-41 contribution rate plan, the subdivision must elect to contribute in
 2-42 all future years in which the allocation described by Subsection
 2-43 (a) is necessary at a rate that is either the rate being paid at the
 2-44 time Subsection (a) is applied or a rate that is [~~an integer~~
 2-45 ~~percent~~] greater than the rate being paid at the time Subsection (a)
 2-46 is applied.

2-47 (g) Before or after the initial allocation under Subsection
 2-48 (a) is determined, the subdivision may elect to contribute a
 2-49 lump-sum deposit or may elect to contribute in all future years that
 2-50 the allocation described by Subsection (a) is necessary at a rate
 2-51 that is [~~an integer percent~~] greater than the rate being paid at the
 2-52 time of the election [~~of the integer percent~~], notwithstanding the
 2-53 provisions of Section 844.605 and Section 844.703.

2-54 SECTION 4. Section 842.010(e), Government Code, is amended
 2-55 to read as follows:

2-56 (e) The governing body of a [~~If the~~] participating
 2-57 subdivision that is not enrolling new members in accordance with
 2-58 Subsection (d) [~~, the annuities and credits described by Subsections~~
 2-59 ~~(b) and (c)~~] may not authorize a change in a provision of the
 2-60 subdivision's plan, except that the governing body may authorize
 2-61 the adoption of an option described by this subtitle:

2-62 (1) to the extent otherwise required by this subtitle;

2-63 or

2-64 (2) if the board of trustees determines that the
 2-65 adoption of the option is consistent with the subdivision's
 2-66 decision to discontinue enrolling new members and does not impair
 2-67 the subdivision's ability to fund its obligations under this
 2-68 subtitle within the applicable period provided by this subtitle [~~be~~
 2-69 ~~increased to a level that exceeds the level in effect immediately~~

3-1 ~~before Subsection (a) became applicable].~~

3-2 SECTION 5. Section 842.101(b), Government Code, is amended
3-3 to read as follows:

3-4 (b) A person to whom Subsection (a)(1) applies becomes a
3-5 member of the retirement system on the date the subdivision's
3-6 participation becomes effective, and a person to whom Subsection
3-7 (a)(2) or (a)(3) applies becomes a member of the retirement system
3-8 on the first day of the person's employment. ~~[A person who
3-9 heretofore became a member pursuant to Subsection (a)(2) on the
3-10 first day of the month subsequent to the month of employment and who
3-11 did not receive credit for the initial month of employment may
3-12 obtain credit for the month preceding the date of membership by
3-13 depositing with the system for credit to the member's individual
3-14 account the amount that would have been deducted as the member
3-15 contribution had the person become a member on the date of
3-16 employment.]~~

3-17 SECTION 6. Section 842.108(b), Government Code, is amended
3-18 to read as follows:

3-19 (b) A member who has separated from employment with a
3-20 participating subdivision may submit an application to withdraw the
3-21 member's accumulated contributions attributable to service with
3-22 that subdivision. A withdrawal cancels the person's credited
3-23 service and service credit attributable to service with that
3-24 subdivision on the date the retirement system makes payment of any
3-25 portion of the member's accumulated contributions. Credited
3-26 service that has been canceled may not be used to determine
3-27 eligibility for a later retirement unless it is reestablished under
3-28 Section 803.203, 843.003, or 843.0031.

3-29 SECTION 7. Section 842.112, Government Code, is amended to
3-30 read as follows:

3-31 Sec. 842.112. CORRECTION OF ERRORS. (a) The retirement
3-32 system may correct any administrative or operational error by any
3-33 appropriate means, taking into account any applicable Internal
3-34 Revenue Service guidelines ~~[If, as a result of a reporting error on~~
3-35 ~~the part of a participating subdivision, a person has not received~~
3-36 ~~credited service or current service credit or has received less~~
3-37 ~~than the correct amount of current service credit for months in~~
3-38 ~~which the person performed service as an employee of the~~
3-39 ~~subdivision, the retirement system shall correct the error as~~
3-40 ~~authorized by this section].~~

3-41 (b) ~~[Except as provided by Subsection (j) or Section~~
3-42 ~~843.005, a correction may not be made as to current service~~
3-43 ~~performed, or current service credit that should have been~~
3-44 ~~received, more than four years before the date an application, on~~
3-45 ~~forms approved by the retirement system's board of trustees, for~~
3-46 ~~the correction is received by the retirement system.~~

3-47 ~~[(c) Except as provided by Subsection (i), a correction may~~
3-48 ~~not be made unless the retirement system receives, in addition to~~
3-49 ~~the application, each of the items required under Subsections (d),~~
3-50 ~~(e), and (f), and one of the following:~~

3-51 ~~[(1) a written agreement, approved by the~~
3-52 ~~subdivision's governing body, stating that an error has occurred~~
3-53 ~~and that the subdivision has agreed to correct that error;~~

3-54 ~~[(2) a final judgment by a court of competent~~
3-55 ~~jurisdiction in proceedings to which the subdivision was a party,~~
3-56 ~~ordering that the subdivision correct the error; or~~

3-57 ~~[(3) an order in an administrative proceeding to which~~
3-58 ~~the subdivision was a party, directing that the subdivision correct~~
3-59 ~~the error, that is no longer subject to appeal.~~

3-60 ~~[(d) A correction may not be made unless the retirement~~
3-61 ~~system receives a supplemental report properly signed on behalf of~~
3-62 ~~the subdivision showing the corrections to credited service or~~
3-63 ~~current service credit of the person.~~

3-64 ~~[(e) A correction may not be made unless the retirement~~
3-65 ~~system receives payment from the person seeking the correction in~~
3-66 ~~an amount equal to the contributions or additional contributions~~
3-67 ~~the person would have made to the system if the service had been~~
3-68 ~~correctly reported to the retirement system.~~

3-69 ~~[(f) A correction may not be made unless the retirement~~

4-1 ~~system receives payment from the subdivision in an amount equal to~~
 4-2 ~~the additional contribution that the subdivision should have paid~~
 4-3 ~~to the retirement system based on the additional credited service~~
 4-4 ~~or current service credit.~~

4-5 ~~[(g) A subdivision that is the subject of an agreement,~~
 4-6 ~~judgment, or order described by Subsection (c) shall file the~~
 4-7 ~~supplemental report and submit the payments described by this~~
 4-8 ~~section within 30 days after the date the subdivision is notified in~~
 4-9 ~~writing by the retirement system that those items should be sent to~~
 4-10 ~~the retirement system.~~

4-11 ~~[(h) If, as a result of a reporting error on the part of a~~
 4-12 ~~participating subdivision, a person has not received prior service~~
 4-13 ~~credit, on written application to the retirement system,~~
 4-14 ~~accompanied by evidence of the prior service satisfactory to the~~
 4-15 ~~retirement system, the retirement system shall correct the error if~~
 4-16 ~~the retirement system receives the person's written application for~~
 4-17 ~~the correction within four years after the later of the date the~~
 4-18 ~~subdivision began participation or the person first became a member~~
 4-19 ~~of the retirement system.~~

4-20 ~~[(i) The correction of an error affecting not more than~~
 4-21 ~~three monthly reports within a period of not more than three~~
 4-22 ~~consecutive months may be made on the basis of the application alone~~
 4-23 ~~if the application, the supplemental report, and the payment~~
 4-24 ~~required by this section are received by the retirement system~~
 4-25 ~~within six months after the first day of the first month for which~~
 4-26 ~~the correction is being made.~~

4-27 ~~[(j)] If, as a result of a suit against a participating~~
 4-28 ~~subdivision in a court of competent jurisdiction or as a result of a~~
 4-29 ~~complaint or grievance against a participating subdivision filed~~
 4-30 ~~with the United States Equal Employment Opportunity Commission, the~~
 4-31 ~~Commission on Human Rights, or a county civil service commission, a~~
 4-32 ~~judgment or order is issued or a settlement agreement is executed,~~
 4-33 ~~the terms of which require that an employee receive back pay or that~~
 4-34 ~~a person be employed or reemployed for a specified period and~~
 4-35 ~~require that the person receive service credit toward retirement~~
 4-36 ~~based on the back pay or both service credit and credited service~~
 4-37 ~~for the specified period of employment or reemployment, on written~~
 4-38 ~~application to the retirement system, the system shall grant the~~
 4-39 ~~service credit and credited service if:~~

4-40 (1) the judgment or order has become final and is no
 4-41 longer subject to appeal;

4-42 (2) a certified copy of the judgment, order, or
 4-43 settlement agreement accompanies the application;

4-44 (3) the retirement system receives payment on behalf
 4-45 of the person in an amount equal to the contributions the person
 4-46 would have made to the system if the back pay or additional service
 4-47 had been reported to the system; and

4-48 (4) the retirement system receives payment from the
 4-49 subdivision in an amount equal to the additional contributions that
 4-50 the subdivision would have made to the system for the additional
 4-51 service credit.

4-52 ~~[(k) If a person to whom Subsection (j) applies has~~
 4-53 ~~forfeited service credit as a result of withdrawal of contributions~~
 4-54 ~~during the time between the termination of employment and the date~~
 4-55 ~~of reinstatement, the person is eligible to reestablish credit~~
 4-56 ~~under Section 843.003. For purposes of this subsection, forfeited~~
 4-57 ~~credit based on service performed for more than one participating~~
 4-58 ~~subdivision is considered to have been credit for service performed~~
 4-59 ~~only for the subdivision that is subject to the judgment, order, or~~
 4-60 ~~settlement agreement, except that credit may not be reinstated~~
 4-61 ~~under this subsection for service performed after the date of the~~
 4-62 ~~termination of employment that resulted in the judgment, order, or~~
 4-63 ~~settlement agreement.]~~

4-64 SECTION 8. The heading to Section 843.003, Government Code,
 4-65 is amended to read as follows:

4-66 Sec. 843.003. REESTABLISHING CREDITED SERVICE AND SERVICE
 4-67 CREDIT PREVIOUSLY FORFEITED.

4-68 SECTION 9. Sections 843.003(b) and (d), Government Code,
 4-69 are amended to read as follows:

5-1 (b) A member eligible to reestablish credit under this
 5-2 section is one who is [+
 5-3 [~~(1) was~~] a member [~~on the effective date of an order~~
 5-4 ~~made under Subsection (a); and~~

5-5 [~~(2) has, since resuming membership, at least 24~~
 5-6 ~~consecutive months of service~~] as an employee of the subdivision on
 5-7 the effective date of an order authorized by the subdivision under
 5-8 Subsection (a) [for which the order was made].

5-9 (d) A governing body may not make an order under Subsection
 5-10 (a) [~~after 1991~~] except on the terms provided by Subchapter H, [~~of~~]
 5-11 Chapter 844.

5-12 SECTION 10. Subchapter A, Chapter 843, Government Code, is
 5-13 amended by adding Section 843.0031 to read as follows:

5-14 Sec. 843.0031. ALTERNATIVE REESTABLISHMENT OF CREDITED
 5-15 SERVICE PREVIOUSLY FORFEITED; OPTION TO PAY LUMP-SUM AMOUNT. (a) A
 5-16 member who has withdrawn contributions from the retirement system
 5-17 and who subsequently resumes employment with a subdivision may by
 5-18 application to the system at any time before retirement reestablish
 5-19 forfeited prior and current credited service.

5-20 (b) A member who has withdrawn contributions from the
 5-21 retirement system and who subsequently resumes employment with a
 5-22 subdivision may at any time before retirement pay to the system a
 5-23 lump sum in any amount that does not exceed the actuarial present
 5-24 value of the additional benefits that would have been attributable
 5-25 to the withdrawn contributions.

5-26 (c) An amount paid under Subsection (b) is not subject to
 5-27 employer matching contributions, even if the member would otherwise
 5-28 be eligible under an order adopted under Section 843.003.

5-29 SECTION 11. Section 843.102, Government Code, is amended by
 5-30 adding Subsection (c) to read as follows:

5-31 (c) A person who has withdrawn contributions from an account
 5-32 for service for a subdivision and who subsequently resumes
 5-33 employment with the subdivision is not eligible to receive service
 5-34 credit under this section for prior service for the subdivision
 5-35 that was not established before the person withdrew the
 5-36 contributions.

5-37 SECTION 12. Section 843.103, Government Code, is amended to
 5-38 read as follows:

5-39 Sec. 843.103. STATEMENT OF PRIOR SERVICE. A [Before the
 5-40 fifth anniversary of the date a] member [becomes] eligible to
 5-41 receive [claim] prior service credit[, a member claiming credit for
 5-42 prior service] shall claim the credit by filing [file] a detailed
 5-43 statement of the service with the treasurer or other disbursing
 5-44 officer of the subdivision for which the service was performed. The
 5-45 statement must be filed before the fifth anniversary of the date the
 5-46 person becomes a member as an employee of the subdivision.

5-47 SECTION 13. Section 843.201(d), Government Code, is amended
 5-48 to read as follows:

5-49 (d) Allocated prior service credits are allowable for a
 5-50 subdivision only if:

5-51 (1) the subdivision has adopted the provisions for an
 5-52 annually determined contribution rate plan under Subchapter H,
 5-53 Chapter 844; or

5-54 (2) the retirement system's actuary determines that
 5-55 the subdivision's unfunded actuarial accrued liability
 5-56 amortization period will be less than 20 [~~25~~] years, if the
 5-57 subdivision has not adopted the provisions of Subchapter H, Chapter
 5-58 844.

5-59 SECTION 14. Section 843.203(a), Government Code, is amended
 5-60 to read as follows:

5-61 (a) The governing body of a public employer [subdivision]
 5-62 that has taken over the functions [facilities of a hospital,
 5-63 utility, or other public facility] formerly performed [operated] by
 5-64 a [another] participating subdivision may assume in whole or in
 5-65 part the obligations that the subdivision [former employer] had
 5-66 undertaken under this subtitle by reason of service performed by
 5-67 members of the system [who become employees of the subdivision
 5-68 seeking to participate in the system]. A public employer
 5-69 [subdivision participating in the system] that could have assumed

6-1 the obligations of another subdivision had this section been in
 6-2 effect at the time the public employer took over the functions of
 6-3 the participating subdivision [~~of participation~~] may assume in
 6-4 whole or in part the obligations that the subdivision that was the
 6-5 first employer had undertaken by reason of service rendered by
 6-6 members of the system [~~who became employees of the subdivision that~~
 6-7 ~~is the second employer~~]. The governing body of a public employer
 6-8 [~~subdivision~~] that assumes the obligations of a a [~~another~~]
 6-9 subdivision under this section may make a lump-sum deposit to the
 6-10 appropriate account [~~of the other subdivision~~] in the retirement
 6-11 system, in an amount computed by the retirement system's actuary,
 6-12 on terms approved by the board of trustees and [~~that are~~] agreed to
 6-13 in writing by the former employer and the assuming employer, if the
 6-14 former employer exists, or by the assuming employer alone, if the
 6-15 former employer does not exist [~~affected subdivisions and approved~~
 6-16 ~~by the board of trustees~~]. Assumptions under this section must
 6-17 [~~shall~~] be by written agreement between the affected existing
 6-18 employers [~~subdivisions~~] and are subject to approval of the board
 6-19 of trustees. The affected employers may amend an [~~An~~] agreement
 6-20 under this section [~~may be amended~~] in writing [~~by the affected~~
 6-21 ~~subdivisions~~] if the [~~amendment is approved by the~~] board of
 6-22 trustees approves the amendment.

6-23 SECTION 15. Section 843.204(b), Government Code, is amended
 6-24 to read as follows:

6-25 (b) The governing body of a subdivision may adopt the
 6-26 provisions of this section:

6-27 (1) on the terms provided by Subchapter H, [~~of~~]
 6-28 Chapter 844; or

6-29 (2) if the board of trustees determines that,
 6-30 according to the computations of the actuary approved by the board
 6-31 of trustees, the adoption would not impair the ability of the
 6-32 subdivision to fund all obligations against its account in the
 6-33 subdivision accumulation fund before the 20th [~~25th~~] anniversary of
 6-34 the subdivision's most recent actuarial valuation date.

6-35 SECTION 16. Section 843.401, Government Code, is amended to
 6-36 read as follows:

6-37 Sec. 843.401. CURRENT SERVICE GENERALLY. Current service
 6-38 [~~Service that~~] is service performed by [~~while a member as~~] an
 6-39 employee of a participating subdivision while a member of the
 6-40 retirement system and [~~is~~] credited as provided under this section.
 6-41 The [~~in the~~] retirement system shall grant one month of current
 6-42 service for each month for which the required contributions are
 6-43 made, reported, and certified by the [~~member and the~~] employing
 6-44 subdivision.

6-45 SECTION 17. Section 843.403(c), Government Code, is amended
 6-46 to read as follows:

6-47 (c) The multiple matching credit of a member is an amount
 6-48 equal to a percentage of the contributions made by the member to the
 6-49 retirement system during a calendar year. The percentage is 0
 6-50 percent until a greater percentage is adopted as provided by
 6-51 Section 843.703 or, for a subdivision whose participation in the
 6-52 retirement system began after October 31, 1980, unless a greater
 6-53 percentage is adopted by its governing body before the first
 6-54 anniversary of the subdivision's effective date of retirement
 6-55 system participation, after the actuary has determined and
 6-56 certified that the greater percentage would not impair the ability
 6-57 of the subdivision to amortize, before the 20th [~~25th~~] anniversary
 6-58 of the participation date, all obligations that are charges against
 6-59 its account in the subdivision accumulation fund. A multiple
 6-60 matching credit includes any portion of a current service credit in
 6-61 effect on January 1, 1978, that exceeds the member's current
 6-62 service credit determined under Subsection (b).

6-63 SECTION 18. Section 843.601(c), Government Code, is amended
 6-64 to read as follows:

6-65 (c) The governing body of a participating subdivision also
 6-66 may, on the terms provided by Section 844.704, authorize the
 6-67 establishment of credited service [~~credit~~] for current service in
 6-68 the retirement system for qualified military service as provided by
 6-69 this subsection. Qualified military service includes military

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

7-14 SECTION 19. Section 844.009(a), Government Code, is amended
 7-15 to read as follows:

7-16 (a) The governing body of a contributing subdivision with a
 7-17 member contribution rate of at least four percent that has not
 7-18 elected to discontinue enrolling employees may adopt the provisions
 7-19 of this section:

7-20 (1) on the terms provided by Subchapter H; or
 7-21 (2) if the board of trustees determines that, based on
 7-22 computations by the retirement system's actuary, the adoption would
 7-23 not impair the ability of the subdivision to fund all obligations
 7-24 against its account in the subdivision accumulation fund before the
 7-25 20th [~~25th~~] anniversary of the subdivision's most recent actuarial
 7-26 valuation date.

7-27 SECTION 20. Subchapter A, Chapter 844, Government Code, is
 7-28 amended by adding Section 844.010 to read as follows:

7-29 Sec. 844.010. CERTAIN BENEFICIARY DESIGNATIONS. (a) A
 7-30 beneficiary designation that names a former spouse as beneficiary
 7-31 is invalid for purposes of this subtitle unless the designation:

7-32 (1) is made or confirmed in writing after the date of
 7-33 divorce; or
 7-34 (2) was made by a retiree who, at the time of divorce,
 7-35 is receiving payments under an optional service or disability
 7-36 retirement with payments to continue to the beneficiary for the
 7-37 beneficiary's life.

7-38 (b) In addition to the authority provided by Section
 7-39 804.051, the board of trustees may adopt rules to require consent of
 7-40 a member's spouse to:

7-41 (1) the member's designation of a beneficiary who is
 7-42 not the member's spouse;
 7-43 (2) the member's selection of an optional form of
 7-44 retirement benefit; or
 7-45 (3) the member's election of a withdrawal of
 7-46 contributions.

7-47 (c) A benefit payable under this subtitle is not subject to
 7-48 a will, other testamentary document, or the law of intestacy to the
 7-49 extent that the member, retiree, or other former member has a
 7-50 different beneficiary under the retirement system than under the
 7-51 testamentary document or law of intestacy.

7-52 SECTION 21. Section 844.104(c), Government Code, is amended
 7-53 to read as follows:

7-54 (c) An eligible person may select any of the following
 7-55 optional annuities that are the actuarial equivalent of the annuity
 7-56 to which the person is entitled and that provide that:

7-57 (1) after the retiree's death, the reduced annuity is
 7-58 payable throughout the life of a person designated by the retiree;
 7-59 (2) after the retiree's death, one-half of the reduced
 7-60 annuity is payable throughout the life of a person designated by the
 7-61 retiree;

7-62 (3) if the retiree dies before 60 monthly annuity
 7-63 payments have been made, the remainder of the 60 payments are
 7-64 payable to the retiree's beneficiary or, if one does not exist, to
 7-65 the retiree's spouse or, if no surviving spouse exists, to the
 7-66 retiree's estate;

7-67 (4) if the retiree dies before 120 monthly annuity
 7-68 payments have been made, the remainder of the 120 payments are
 7-69 payable to the retiree's beneficiary or, if one does not exist, to

8-1 the retiree's spouse or, if no surviving spouse exists, to the
 8-2 retiree's estate;

8-3 (5) after the retiree's death, the reduced annuity is
 8-4 payable throughout the life of a person designated by the retiree,
 8-5 except that if the beneficiary predeceases the retiree, the annuity
 8-6 payable throughout the remaining life of the retiree is the annuity
 8-7 that would be payable if the retiree had chosen a standard service
 8-8 retirement annuity;

8-9 (6) after the retiree's death, three-fourths of the
 8-10 reduced annuity is payable throughout the life of a person
 8-11 designated by the retiree; or

8-12 (7) if the retiree dies before 180 monthly annuity
 8-13 payments have been made, the remainder of the 180 payments are
 8-14 payable to the retiree's beneficiary or, if one does not exist, to
 8-15 the retiree's spouse or, if no surviving spouse exists, to the
 8-16 retiree's estate.

8-17 SECTION 22. Section 844.208(b), Government Code, is amended
 8-18 to read as follows:

8-19 (b) The amount of annuity increase under this section is
 8-20 computed as the sum of the basic and supplemental annuities on the
 8-21 effective date of retirement of the person on whose service the
 8-22 annuities are based or, if the person's current annuity has been
 8-23 increased under Section 844.006(c) or (d), 844.104(c)(5), or
 8-24 844.305(c)(5), the sum of the basic and supplemental annuities is
 8-25 computed as if the person had selected a standard service or
 8-26 disability retirement annuity on the person's effective date of
 8-27 retirement, multiplied by:

8-28 (1) the percentage change in the Consumer Price Index
 8-29 for All Urban Consumers, published by the Bureau of Labor
 8-30 Statistics of the United States Department of Labor, from December
 8-31 of the year immediately preceding the effective date of the
 8-32 person's retirement to the December that is 13 months before the
 8-33 month in which the effective date of the order or resolution
 8-34 providing the increase occurs; and

8-35 (2) a fraction, specified by the governing body in the
 8-36 order or resolution, that is not less than 30 percent nor more than
 8-37 80 percent and is a multiple of 10 percent.

8-38 SECTION 23. Section 844.305(c), Government Code, is amended
 8-39 to read as follows:

8-40 (c) An eligible person may select any of the following
 8-41 optional annuities that are the actuarial equivalent of the annuity
 8-42 to which the person is entitled and that provide that:

8-43 (1) after the retiree's death, the reduced annuity is
 8-44 payable throughout the life of a person designated by the retiree;

8-45 (2) after the retiree's death, one-half of the reduced
 8-46 annuity is payable throughout the life of a person designated by the
 8-47 retiree;

8-48 (3) if the retiree dies before 60 monthly annuity
 8-49 payments have been made, the remainder of the 60 payments are
 8-50 payable to the retiree's beneficiary or, if one does not exist, to
 8-51 the retiree's spouse or, if no surviving spouse exists, to the
 8-52 retiree's estate;

8-53 (4) if the retiree dies before 120 monthly annuity
 8-54 payments have been made, the remainder of the 120 payments are
 8-55 payable to the retiree's beneficiary or, if one does not exist, to
 8-56 the retiree's spouse or, if no surviving spouse exists, to the
 8-57 retiree's estate;

8-58 (5) after the retiree's death, the reduced annuity is
 8-59 payable throughout the life of a person designated by the retiree,
 8-60 except that if the beneficiary predeceases the retiree, the annuity
 8-61 payable throughout the remaining life of the retiree is the annuity
 8-62 that would be payable if the retiree had chosen a standard service
 8-63 retirement annuity;

8-64 (6) after the retiree's death, three-fourths of the
 8-65 reduced annuity is payable throughout the life of a person
 8-66 designated by the retiree; or

8-67 (7) if the retiree dies before 180 monthly annuity
 8-68 payments have been made, the remainder of the 180 payments are
 8-69 payable to the retiree's beneficiary or, if one does not exist, to

9-1 the retiree's spouse or, if no surviving spouse exists, to the
 9-2 retiree's estate.

9-3 SECTION 24. Section 844.504, Government Code, is amended to
 9-4 read as follows:

9-5 Sec. 844.504. RETIREE SUPPLEMENTAL DEATH BENEFIT. If a
 9-6 retiree dies who was receiving a retirement annuity based on
 9-7 service for a subdivision that has elected to provide, and
 9-8 continues to provide, postretirement supplemental death benefits,
 9-9 a lump-sum supplemental death benefit is payable from the fund in
 9-10 the amount of \$5,000. [~~If a retiree dies who was receiving~~
 9-11 ~~retirement annuities based on service for more than one subdivision~~
 9-12 ~~that has elected to provide, and continues to provide,~~
 9-13 ~~postretirement supplemental death benefits, the financing of the~~
 9-14 ~~lump-sum benefit will be prorated among those subdivisions. If a~~
 9-15 ~~person dies while payment of a retirement annuity to that person is~~
 9-16 ~~suspended as a result of Section 842.110, the supplemental death~~
 9-17 ~~benefit under this section will be paid if it would have been~~
 9-18 ~~payable except for the suspension, unless a supplemental death~~
 9-19 ~~benefit is payable under Section 844.503 as a result of the member's~~
 9-20 ~~death.]~~

9-21 SECTION 25. Sections 844.605(a), (b), and (d), Government
 9-22 Code, are amended to read as follows:

9-23 (a) If the actuary determines that the obligations of a
 9-24 participating subdivision to the subdivision accumulation fund
 9-25 cannot be amortized within a period of 30 [~~40~~] years or determines
 9-26 that subdivision contributions at the rate in accordance with
 9-27 Section 845.404(a)(2) and any supplemental contribution rate
 9-28 adopted by the subdivision under this section are inadequate to
 9-29 fund all obligations charged against the subdivision's account in
 9-30 the subdivision accumulation fund, the governing body of the
 9-31 subdivision may by order or resolution provide additional
 9-32 contributions by adopting a supplemental contribution rate under
 9-33 this section to reduce the funding period.

9-34 (b) A supplemental contribution rate is the rate of
 9-35 contribution by a subdivision to its account in the subdivision
 9-36 accumulation fund, in addition to the contributions provided under
 9-37 Section 845.404(a)(2), that the actuary determines and certifies is
 9-38 required, together with the contributions provided under Section
 9-39 845.404(a)(2), to amortize the obligations of the subdivision to
 9-40 the subdivision accumulation fund within a period of 20 [~~25~~] years.
 9-41 A supplemental contribution rate may exceed the rate determined by
 9-42 the actuary.

9-43 (d) A supplemental contribution rate adopted by the
 9-44 governing body of a subdivision expires at the end of the 20th
 9-45 [~~25th~~] calendar year after its effective date, or at the end of any
 9-46 earlier calendar year in which the actuary determines and
 9-47 certifies, after the annual actuarial valuation under Section
 9-48 845.206, that all obligations of the subdivision to the subdivision
 9-49 accumulation fund can be amortized within a period of 20 [~~25~~] years
 9-50 on the basis of contributions provided by the subdivision under
 9-51 Section 845.404(a)(2).

9-52 SECTION 26. Sections 844.606(b), (d), and (e), Government
 9-53 Code, are amended to read as follows:

9-54 (b) The actuary shall determine what lower percentage to be
 9-55 used in determining multiple matching credits under Section
 9-56 843.403(c) for contributions made after the effective date of the
 9-57 reduction is required to amortize the obligations of the
 9-58 subdivision to the subdivision accumulation fund within a period of
 9-59 20 [~~25~~] years.

9-60 (d) The governing body of a participating subdivision may
 9-61 reduce the percentage used in determining multiple matching credits
 9-62 under Section 843.403(c) to zero percent for contributions made
 9-63 after the effective date of the reduction, even if the resulting
 9-64 amortization period exceeds 20 [~~25~~] years.

9-65 (e) The governing body of a participating subdivision may
 9-66 reduce the percentage used in determining multiple matching credits
 9-67 in conjunction with the adoption of a supplemental contribution
 9-68 rate under Section 844.605 in order to amortize the obligations of
 9-69 the subdivision to the subdivision accumulation fund within a

10-1 period of 20 [~~25~~] years.

10-2 SECTION 27. Section 844.608(b), Government Code, is amended
10-3 to read as follows:

10-4 (b) If the actuary determines that, despite all required
10-5 decreases described by Section 844.607, the obligations of a
10-6 participating subdivision to the subdivision accumulation fund
10-7 cannot be amortized within a period of 20 [~~25~~] years, the retirement
10-8 system shall reduce the rate of member contributions to such lower
10-9 rate authorized by this section as, in the opinion of the actuary,
10-10 is required for the obligations of the subdivision to the
10-11 subdivision accumulation fund to be able to be amortized within a
10-12 period of 20 [~~25~~] years. At the time the actuary determines that
10-13 the rate of employee contributions no longer must be reduced for the
10-14 obligations to be able to be amortized within 20 [~~25~~] years, the
10-15 retirement system shall reinstate the employee contribution rate to
10-16 the rate that was in effect at the time of the reduction, unless the
10-17 governing body of the subdivision has elected to change to some
10-18 other rate authorized by Section 845.402. Any change under this
10-19 section shall be made on January 1 of the year following the
10-20 applicable determination by the actuary.

10-21 SECTION 28. Sections 844.704(d) and (f), Government Code,
10-22 are amended to read as follows:

10-23 (d) The governing body of a subdivision that has adopted or
10-24 is adopting the plan provisions of this subchapter may adopt or
10-25 authorize:

10-26 (1) an increase in retirement annuities under Section
10-27 844.209;

10-28 (2) an increase in retirement annuities under Section
10-29 844.208;

10-30 (3) the reestablishment of credited service
10-31 previously forfeited under Section 843.003;

10-32 (4) the establishment of credited service for military
10-33 service under Section 843.601(c);

10-34 (5) [~~the reduction in the credited service requirement~~
10-35 ~~for military service under Section 843.601(g)~~;

10-36 [~~(6)~~] the establishment of premembership credited
10-37 service for overage employees under Section 843.204;

10-38 (6) [~~(7)~~] the benefit eligibility plan described by
10-39 Section 844.210, 844.211, or 844.212; or

10-40 (7) [~~(8)~~] the partial lump-sum distribution on
10-41 service retirement under Section 844.009.

10-42 (f) An order or resolution under this section must be filed
10-43 with the retirement system not later than December 15 of the year
10-44 preceding the year in which it will take effect and may not take
10-45 effect until the order or resolution is approved by the board of
10-46 trustees as meeting the requirements of this section. After
10-47 approval by the board, an order or resolution may take effect only
10-48 on January 1 of a year, except that an order or resolution for a
10-49 subdivision that begins participation after January 1, 1992, may
10-50 take effect on the date the subdivision begins participation.

10-51 SECTION 29. Section 845.003, Government Code, is amended to
10-52 read as follows:

10-53 Sec. 845.003. ELIGIBILITY. (a) To be eligible to serve as
10-54 a trustee a person must be:

10-55 (1) a member of the retirement system[+] and

10-56 [~~(2)~~] an employee of a participating subdivision; or

10-57 (2) a retiree of the retirement system.

10-58 (b) If a person serving as a trustee ceases to meet an
10-59 eligibility requirement under Subsection (a) [be an employee of a
10-60 participating subdivision or fails to attend four consecutive
10-61 regular meetings of the board of trustees], the person may not act
10-62 as a trustee and shall vacate the office of trustee.

10-63 (c) A person serving as trustee who fails to attend four
10-64 consecutive regular meetings of the board of trustees may not act as
10-65 a trustee and is considered to have vacated the office of trustee.

10-66 SECTION 30. Section 845.007(a), Government Code, is amended
10-67 to read as follows:

10-68 (a) The board of trustees shall hold four regular meetings
10-69 [~~in March, June, September, and December of]~~ each year and special

11-1 meetings when called by the director.

11-2 SECTION 31. Sections 845.309(b) and (e), Government Code,
11-3 are amended to read as follows:

11-4 (b) As of [~~On~~] December 31 of each year, the
11-5 nondistributable income account will be adjusted by the net change
11-6 in carrying value necessary to value at market all domestic,
11-7 fixed-income securities owned by the retirement system as part of a
11-8 passively managed, long-term portfolio.

11-9 (e) As of [~~On~~] December 31 of each year, the amount
11-10 remaining in the distributable income account and the investment
11-11 expenses account shall be distributed in the manner prescribed by
11-12 this subtitle.

11-13 SECTION 32. Section 845.315(a), Government Code, is amended
11-14 to read as follows:

11-15 (a) As of [~~On~~] December 31 of each year and after the balance
11-16 of the investment expenses account has been transferred to the
11-17 distributable income account, the board of trustees shall transfer
11-18 from the distributable income account of the interest fund the
11-19 following amounts:

11-20 (1) to the current service annuity reserve fund,
11-21 interest on the mean amount in the current service annuity reserve
11-22 fund during that year;

11-23 (2) to the supplemental death benefits fund, interest
11-24 on the mean amount in the supplemental death benefits fund during
11-25 that year;

11-26 (3) to the general reserves account of the endowment
11-27 fund, a dollar amount determined by the board of trustees as
11-28 necessary to provide adequate funding of the endowment fund,
11-29 including provisions for all special needs, all contingencies,
11-30 replenishment of the amount transferred during the current year to
11-31 the employees saving fund for interest to retiring or deceased
11-32 members plus the matching amount transferred to the subdivision
11-33 accumulation fund, and funding of investment expenses and
11-34 administrative costs for the following year;

11-35 (4) to the employees saving fund, current interest on
11-36 the sum of the accumulated contributions in the employees saving
11-37 fund credited on January 1 of that year to all persons who are
11-38 members on December 31 of that year before any transfers for
11-39 retirement effective December 31 of that year are made; and

11-40 (5) to the subdivision accumulation fund, the
11-41 remaining balance of the distributable income account in the
11-42 interest fund after transfers provided for by Subdivisions (1),
11-43 (2), (3), and (4) have been made.

11-44 SECTION 33. Section 845.402(c), Government Code, is amended
11-45 to read as follows:

11-46 (c) The governing body of a participating subdivision may
11-47 reduce the rate of its member contributions effective on the first
11-48 day of any calendar year if, at least 90 days before the date of the
11-49 reduction, the subdivision has given written notice of the
11-50 reduction to the board of trustees and if the actuary determines
11-51 that the reduction would not impair the ability of the subdivision
11-52 to fund all obligations against its account in the subdivision
11-53 accumulation fund before the 20th [~~25th~~] anniversary of the
11-54 subdivision's most recent actuarial valuation date.

11-55 SECTION 34. Section 845.407, Government Code, is amended by
11-56 amending Subsection (a) and adding Subsection (e) to read as
11-57 follows:

11-58 (a) Except as provided by Subsections (c), [~~and~~] (d), and
11-59 (e), a participating subdivision that fails to provide the
11-60 information required by Section 845.403 or to pay all contributions
11-61 required by this subchapter to be made and remitted to the
11-62 retirement system not later than the 15th day of the month in which
11-63 they become due shall pay a penalty under this section. The penalty
11-64 for a past-due monthly remission is equal to interest on the
11-65 past-due amounts for each day past due at a nominal interest rate of
11-66 12 percent, plus a \$500 administrative fee. If the penalty is not
11-67 paid within three months after the date notice of the penalty has
11-68 been sent to the subdivision, the retirement system shall deduct
11-69 the penalty from the subdivision's account in the subdivision

12-1 accumulation fund. The interest portion of the penalty shall be
12-2 deposited by the retirement system in the distributable income
12-3 account of the interest fund. The administrative fee portion of the
12-4 penalty shall be deposited by the retirement system in the expense
12-5 fund.

12-6 (e) The retirement system may extend the due date provided
12-7 by this section if a subdivision applies for an extension before the
12-8 due date and the director determines that good cause exists for the
12-9 extension and that the need for the extension is not caused by
12-10 neglect, indifference, or lack of diligence.

12-11 SECTION 35. Subchapter F, Chapter 845, Government Code, is
12-12 amended by adding Sections 845.503 and 845.504 to read as follows:

12-13 Sec. 845.503. AUTHORITY TO RECOUP OR MAKE ADJUSTMENTS FOR
12-14 PAYMENTS MADE IN ERROR. (a) The retirement system may reduce
12-15 future payments of benefits based on the account of a member, a
12-16 retiree, or other former member to recoup an amount overpaid or
12-17 otherwise paid in error to or on the behalf of the member, retiree,
12-18 or other former member. If no future payments are due, the
12-19 retirement system may recover the overpayment in any manner that is
12-20 permitted for the collection of any other debt.

12-21 (b) The retirement system may not recover from a member,
12-22 retiree, or other former member any overpayment made more than
12-23 three years before the date the overpayment is discovered. This
12-24 subsection does not apply to an overpayment a reasonable person
12-25 should know the person is not entitled to receive.

12-26 (c) The retirement system may adjust amounts in a
12-27 subdivision's account in the subdivision accumulation fund to
12-28 correct an error related to the account.

12-29 Sec. 845.504. EXCESS BENEFIT PROGRAM. (a) If the board of
12-30 trustees determines that it is in the interest of the retirement
12-31 system and will benefit members and annuitants, the board by rule
12-32 may establish an excess benefits program for the payment of
12-33 benefits under Section 415(m) of the Internal Revenue Code of 1986,
12-34 and its subsequent amendments, that would otherwise be barred by
12-35 the limitation on benefits imposed by Section 415 of that code.

12-36 (b) Notwithstanding any other provision of this subtitle,
12-37 the board of trustees by rule may provide for the transfer of
12-38 contributions as part of the excess benefits program in a manner
12-39 consistent with a governmental excess benefit arrangement.

12-40 SECTION 36. Section 844.605(d), Government Code, as amended
12-41 by this Act, applies only to a supplemental contribution rate
12-42 adopted by a governing body of a subdivision on or after the
12-43 effective date of this Act.

12-44 SECTION 37. The following provisions of the Government Code
12-45 are repealed:

- 12-46 (1) Section 843.005;
- 12-47 (2) Section 843.106;
- 12-48 (3) Section 843.107; and
- 12-49 (4) Section 843.601(g).

12-50 SECTION 38. This Act takes effect January 1, 2004.

12-51 * * * * *