

1-1 By: Kuempel, Bonnen, Riddle H.B. No.633  
1-2 (Senate Sponsor - Armbrister)  
1-3 (In the Senate - Received from the House March 21, 2005;  
1-4 March 30, 2005, read first time and referred to Committee on State  
1-5 Affairs; May 3, 2005, reported favorably by the following vote:  
1-6 Yeas 7, Nays 0; May 3, 2005, sent to printer.)

1-7 A BILL TO BE ENTITLED  
1-8 AN ACT

1-9 relating to participation and credit in, contributions to, and  
1-10 benefits and administration of the Texas County and District  
1-11 Retirement System.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 75.112(c), Government Code, is amended  
1-14 to read as follows:

1-15 (c) A senior district court judge appointed under this  
1-16 subchapter who is not a retiree of the Texas County and District  
1-17 Retirement System is subject to the conditions for membership in  
1-18 that retirement system during the period the appointment is in  
1-19 effect that are provided by Section 842.107 [~~Sections 842.201,~~  
1-20 ~~842.202, and 842.203~~]. If a senior district court judge begins,  
1-21 retains, or resumes membership in the Texas County and District  
1-22 Retirement System, the judge accrues service credit in that  
1-23 retirement system for each month of membership in which the  
1-24 appointment is in effect.

1-25 SECTION 2. Sections 841.001(8) and (17), Government Code,  
1-26 are amended to read as follows:

1-27 (8) "Employee" means a person, other than a person  
1-28 determined by a subdivision to be a temporary employee, who is  
1-29 certified by a subdivision as being employed in, or elected or  
1-30 appointed to, a position or office in the subdivision [~~that~~  
1-31 ~~normally requires services from the person for not less than 900~~  
1-32 ~~hours a year and~~] for which the person is compensated by the  
1-33 subdivision. The term includes a person described by Section  
1-34 842.107 only as provided by that section [~~employed on a~~  
1-35 ~~probationary basis, except as provided by Section 842.107~~].

1-36 (17) "Subdivision" means a political subdivision of  
1-37 the state that is not eligible to participate in any other statewide  
1-38 retirement system or that is not currently participating in a  
1-39 retirement system established by the legislature. The term  
1-40 includes [county, a political unit that consists of all of the  
1-41 geographical area of one county or of all or part of more than one  
1-42 county, a political unit of a county that has taxing authority, an  
1-43 authority created by the state to conduct redevelopment activities  
1-44 on or related to closed military installations of the United  
1-45 States, a crime control and prevention district,] the Texas  
1-46 Association of Counties, the Texas County and District Retirement  
1-47 System, and [or a city and county that jointly operate] a  
1-48 city-county hospital jointly managed under Subchapter B, Chapter  
1-49 265, Health and Safety Code. The term[, but] does not include a  
1-50 branch, division, department, employee classification group, or  
1-51 other separately identified component of a political subdivision  
1-52 [an incorporated city or town, a school district, or a junior  
1-53 college district].

1-54 SECTION 3. Subchapter A, Chapter 841, Government Code, is  
1-55 amended by adding Section 841.0051 to read as follows:

1-56 Sec. 841.0051. VENUE. (a) The venue of any action brought  
1-57 against the retirement system in a state court or before the State  
1-58 Office of Administrative Hearings is in Travis County.

1-59 (b) The venue of any action brought in a state court by the  
1-60 retirement system is in Travis County or in the county in which the  
1-61 defendant is situated, domiciled, or does business.

1-62 SECTION 4. Section 841.010(b), Government Code, is amended  
1-63 to read as follows:

1-64 (b) The entire vested interest of a participant must be

2-1 distributed or begin to be distributed not later than the required  
 2-2 beginning date as determined in accordance with Section 401(a)(9)  
 2-3 of the Internal Revenue Code of 1986 and the regulations adopted  
 2-4 under that provision [April 1 following the later of the year in  
 2-5 which the participant attains age 70-1/2 or the year in which the  
 2-6 participant separates from service with all participating  
 2-7 subdivisions]. If the participant dies after distribution of the  
 2-8 participant's interest has begun, the remaining portion of the  
 2-9 interest will continue to be distributed at least as rapidly as the  
 2-10 method of distribution being used before the participant's death.  
 2-11 If the participant dies before distribution of the participant's  
 2-12 interest begins, distribution of the participant's entire interest  
 2-13 must be made in a manner complying with Section 401(a)(9)(B) of the  
 2-14 code.

2-15 SECTION 5. Subchapter A, Chapter 842, Government Code, is  
 2-16 amended by adding Section 842.0075 to read as follows:

2-17 Sec. 842.0075. ASSUMPTION BY SUCCESSOR SUBDIVISION.

2-18 (a) The governing body of a participating subdivision may, with  
 2-19 the consent of the board of trustees and on terms approved by the  
 2-20 board, assume the subdivision account and pension liabilities of a  
 2-21 subdivision that no longer exists, is in the process of  
 2-22 dissolution, is changing its operational form, or no longer has  
 2-23 employees. The account and pension liabilities of a subdivision  
 2-24 described by this subsection may not be assumed if the subdivision  
 2-25 has executed a voluntary termination agreement under Section  
 2-26 842.052 or if the board has specified a date under Section 842.053  
 2-27 for the involuntary termination of the subdivision's participation  
 2-28 in the retirement system.

2-29 (b) Subject to any limitation set by the board of trustees,  
 2-30 the governing body of the assuming subdivision may exercise any  
 2-31 authority with respect to plan provisions applicable to members and  
 2-32 annuitants of the subdivision plan being assumed that the governing  
 2-33 body of that subdivision could have exercised.

2-34 (c) Except as otherwise provided by this section, all  
 2-35 retirement plan provisions in effect on the assumption date remain  
 2-36 in effect until changed by the governing body of the assuming  
 2-37 subdivision.

2-38 (d) As of the assumption date, the account in the  
 2-39 subdivision accumulation fund being assumed and the account of the  
 2-40 assuming subdivision will be treated as one account for the  
 2-41 purposes of receiving allocations under this subtitle and paying  
 2-42 benefits accrued with respect to either subdivision.

2-43 (e) The retirement system is not liable to any person for  
 2-44 any claim or loss of benefits resulting from the assumption by  
 2-45 another participating subdivision of the account and pension  
 2-46 liabilities of a subdivision described by Subsection (a).

2-47 (f) The board of trustees by rule may establish standards,  
 2-48 definitions, and procedures it considers necessary to administer  
 2-49 this section and shall take reasonable actions and exercise its  
 2-50 discretion in a fair and equitable manner on a case-by-case basis to  
 2-51 preserve accrued benefits.

2-52 SECTION 6. Chapter 842, Government Code, is amended by  
 2-53 adding Subchapter A-1 to read as follows:

2-54 SUBCHAPTER A-1. TERMINATION OF PARTICIPATION BY SUBDIVISIONS

2-55 Sec. 842.051. GENERAL PROVISIONS. (a) Notwithstanding  
 2-56 any provision of this subchapter to the contrary, to the extent  
 2-57 required by applicable provisions of the Internal Revenue Code of  
 2-58 1986, on termination of a subdivision's participation in the  
 2-59 retirement system or on complete discontinuance of contributions,  
 2-60 each member becomes fully vested in the member's accrued benefit  
 2-61 with respect to the subdivision to the extent funded as of the date  
 2-62 of termination or contribution discontinuance.

2-63 (b) The retirement system is not liable to any person for  
 2-64 any claim or loss of benefits resulting from the termination of a  
 2-65 subdivision's participation in the system or the failure of a  
 2-66 subdivision to make required contributions or payments under a  
 2-67 termination agreement.

2-68 (c) The board of trustees by rule may establish standards,  
 2-69 definitions, and procedures it considers necessary to administer

3-1 this subchapter and shall take reasonable actions and exercise its  
 3-2 discretion in a fair and equitable manner on a case-by-case basis to  
 3-3 preserve accrued benefits.

3-4 Sec. 842.052. VOLUNTARY TERMINATION OF PARTICIPATION.

3-5 (a) With the consent of the board of trustees, a subdivision other  
 3-6 than a county may voluntarily terminate its participation in the  
 3-7 retirement system if the subdivision agrees to be contractually and  
 3-8 legally bound, on terms approved by the board, to fund:

3-9 (1) all benefits accrued before the date specified in  
 3-10 the termination agreement and payable on or after that date in  
 3-11 accordance with Subsection (e); and

3-12 (2) all supplemental annuities.

3-13 (b) Beginning with the date specified in the termination  
 3-14 agreement, additional employee contributions or deposits may not be  
 3-15 made to a member's account and additional service with the  
 3-16 subdivision may not be credited to a member, except as authorized by  
 3-17 the board. Except as otherwise provided by this section, all other  
 3-18 retirement plan provisions then in effect remain in effect.

3-19 (c) Beginning with the date specified in the termination  
 3-20 agreement, the subdivision's account in the subdivision  
 3-21 accumulation fund ceases to receive allocations under this subtitle  
 3-22 for any prior, current, or future plan year, except as authorized by  
 3-23 the board.

3-24 (d) On full performance of the termination agreement, the  
 3-25 subdivision is released from all liability for its accrued benefits  
 3-26 and supplemental annuities. The retirement system shall make  
 3-27 transfers from the subdivision's account to the appropriate funds  
 3-28 within the system in amounts actuarially equivalent to the accrued  
 3-29 benefits and supplemental annuities. The retirement system shall  
 3-30 pay any amounts remaining in the subdivision's account after  
 3-31 satisfaction of all the subdivision's pension liabilities to the  
 3-32 subdivision or its successor in interest in accordance with Section  
 3-33 845.317(b).

3-34 (e) On full performance of the termination agreement, each  
 3-35 member who has not received a refund of accumulated contributions  
 3-36 becomes fully vested in the member's accrued benefits with respect  
 3-37 to the subdivision and is immediately eligible to retire with a  
 3-38 service retirement annuity or to take a distribution of the accrued  
 3-39 benefits in a lump sum, regardless of age, service, or employment.

3-40 (f) A member vested under Subsection (e) or Section  
 3-41 842.051(a) is an eligible member under Section 844.407. For the  
 3-42 purpose of determining any death benefit payable under Section  
 3-43 844.402, the member's individual account consists only of the  
 3-44 deposits and contributions made by the member and the accumulated  
 3-45 interest attributable to those amounts.

3-46 Sec. 842.053. INVOLUNTARY TERMINATION OF PARTICIPATION.

3-47 (a) The board of trustees by order may terminate the participation  
 3-48 of a subdivision other than a county if the board determines that:

3-49 (1) the subdivision has failed to perform in  
 3-50 accordance with a termination agreement under Section 842.052;

3-51 (2) the subdivision has ceased to exist, is in the  
 3-52 process of dissolving, or is changing its operational form;

3-53 (3) benefits accrued for service with the subdivision  
 3-54 may be at risk of forfeiture;

3-55 (4) the retirement system no longer serves as an  
 3-56 effective program for providing retirement, disability, and death  
 3-57 benefits to the employees of the subdivision because of the action  
 3-58 or inaction of the subdivision or because of a significant change in  
 3-59 covered payroll, number of contributing members, workforce  
 3-60 composition, general revenues, or other circumstances of the  
 3-61 subdivision; or

3-62 (5) the continued participation of the subdivision is  
 3-63 not in the best interest of the retirement system, the subdivision,  
 3-64 the employees of the subdivision, or the other participating  
 3-65 subdivisions.

3-66 (b) Beginning with a date specified by the board, additional  
 3-67 employee deposits or contributions may not be made to a member's  
 3-68 account with the subdivision and additional service with the  
 3-69 subdivision may not be credited to a member, except as authorized by

4-1 the board. Except as otherwise provided by this subchapter, all  
4-2 other retirement plan provisions then in effect remain in effect.

4-3 (c) Beginning with a date specified by the board, the  
4-4 subdivision's account in the subdivision accumulation fund ceases  
4-5 to receive allocations under this subtitle for any prior, current,  
4-6 or future plan year except as authorized by the board.

4-7 (d) Beginning with a date specified by the board, the  
4-8 retirement system shall value the accrued benefits and supplemental  
4-9 annuities with respect to the subdivision's participation as  
4-10 immediately payable under this subchapter. If the assets in the  
4-11 subdivision's account exceed the actuarial equivalent value of  
4-12 pension benefits, the subdivision is released from all liability  
4-13 with respect to the accrued benefits and supplemental annuities.  
4-14 The retirement system shall make transfers from the subdivision's  
4-15 account to the appropriate funds within the system in amounts  
4-16 actuarially equivalent to all accrued benefits and supplemental  
4-17 annuities. The retirement system shall pay any amount remaining in  
4-18 the subdivision's account after satisfaction of all the  
4-19 subdivision's pension liabilities to the subdivision or its  
4-20 successor in interest in accordance with Section 845.317(b).

4-21 (e) If the actuarial equivalent value of pension benefits  
4-22 exceeds the assets in the subdivision's account, the subdivision or  
4-23 its successor in interest may make a contribution in any amount to  
4-24 the subdivision's account. The retirement system shall transfer  
4-25 the assets of the subdivision's account in the subdivision  
4-26 accumulation fund to appropriate funds within the system and  
4-27 allocate the assets as provided by Sections 842.054-842.057.

4-28 Sec. 842.054. CLASS A. In a case of involuntary termination  
4-29 under Section 842.053, the retirement system shall make a  
4-30 proportionate transfer to the individual account of each member of  
4-31 the subdivision eligible to retire based on the ratio that the  
4-32 member's current service credit bears to the total current service  
4-33 credit of the class. The transfer to a member's individual account  
4-34 may not exceed 100 percent of the member's current service credit.

4-35 Sec. 842.055. CLASS B. If any assets remain after the  
4-36 transfers are made under Section 842.054, the retirement system  
4-37 shall make a proportionate transfer to the individual account of  
4-38 each member of the subdivision not eligible to retire based on the  
4-39 ratio that the member's current service credit bears to the total  
4-40 current service credit of the class. The transfer to a member's  
4-41 individual account may not exceed 100 percent of the member's  
4-42 current service credit.

4-43 Sec. 842.056. CLASS C. If any assets remain after the  
4-44 transfers are made under Sections 842.054 and 842.055, the  
4-45 retirement system shall make a transfer to the current service  
4-46 annuity reserve fund in an amount computed as necessary to fund the  
4-47 supplemental annuities of the annuitants of the subdivision and a  
4-48 transfer to the individual account of each member of the class  
4-49 eligible to retire in an amount that equals the multiple matching  
4-50 credits and prior service credits of the member. If necessary, the  
4-51 retirement system shall proportionately reduce an individual's  
4-52 total credits or supplemental annuity, as applicable, based on the  
4-53 ratio that the individual's total actuarial equivalent of benefits  
4-54 described by this section bears to the aggregate total actuarial  
4-55 equivalent of all those benefits of the class.

4-56 Sec. 842.057. CLASS D. If any assets remain after the  
4-57 transfers are made under Sections 842.054, 842.055, and 842.056,  
4-58 the retirement system shall make a proportionate transfer to the  
4-59 individual account of each member not eligible to retire based on  
4-60 the ratio that the sum of the member's multiple matching credits and  
4-61 prior service credits bears to the total multiple matching credits  
4-62 and prior service credits of the class. The transfer to a member's  
4-63 individual account may not exceed 100 percent of the member's  
4-64 multiple matching credits and prior service credits.

4-65 Sec. 842.058. BENEFITS. (a) After the transfers,  
4-66 allocations, and any necessary reductions described by Sections  
4-67 842.054-842.057 have been made, each member who has not received a  
4-68 refund of accumulated contributions becomes fully vested in the  
4-69 member's accrued benefits with respect to the subdivision to the

5-1 extent funded and is immediately eligible to retire with a service  
 5-2 retirement annuity or to take a distribution of the accrued  
 5-3 benefits in a lump sum, regardless of age, service, or employment.

5-4 (b) A member vested under this section or Section 842.051(a)  
 5-5 is an eligible member under Section 844.407. For the purpose of  
 5-6 determining any death benefit payable under Section 844.402, the  
 5-7 member's individual account consists only of the deposits and  
 5-8 contributions made by the member and the accumulated interest  
 5-9 attributable to those amounts.

5-10 SECTION 7. Sections 842.101(a) and (b), Government Code,  
 5-11 are amended to read as follows:

5-12 (a) Except as otherwise provided by this subchapter, a  
 5-13 person who is not a member becomes a member of the retirement system  
 5-14 on the latest of [if]:

5-15 (1) ~~[on]~~ the date the subdivision's participation in  
 5-16 the retirement system becomes effective, if the person is a  
 5-17 subdivision employee on that date;

5-18 (2) the date [before September 1, 1987, and after the  
 5-19 date the subdivision's participation in the retirement system  
 5-20 became effective,] the person becomes [became] a subdivision  
 5-21 employee ~~[and was less than 60 years old at the time of employment];~~  
 5-22 or

5-23 (3) January 1, 2006, if the person is an employee of a  
 5-24 participating subdivision on that date and was previously excluded  
 5-25 from retirement system membership [after August 31, 1987, and after  
 5-26 the date the subdivision's participation becomes effective, the  
 5-27 person becomes a subdivision employee].

5-28 (b) Except as otherwise provided by this subtitle, the  
 5-29 rights and benefits of a member are determined separately with  
 5-30 respect to each subdivision with which the member has credited  
 5-31 service [A person to whom Subsection (a)(1) applies becomes a  
 5-32 member of the retirement system on the date the subdivision's  
 5-33 participation becomes effective, and a person to whom Subsection  
 5-34 (a)(2) or (a)(3) applies becomes a member of the retirement system  
 5-35 on the first day of the person's employment].

5-36 SECTION 8. Section 842.105, Government Code, is amended to  
 5-37 read as follows:

5-38 Sec. 842.105. STATUS AS AN EMPLOYEE. For the purposes of  
 5-39 this subtitle, a person has the standing of an employee in a  
 5-40 participating subdivision if the person is an employee, other than  
 5-41 a temporary employee, of [+

5-42 ~~[(1) is employed in a position that normally requires~~  
 5-43 ~~services from the person for not less than 900 hours a year by]~~ a  
 5-44 community supervision and corrections department that has executed  
 5-45 a contract with the participating subdivision under Section 76.006,  
 5-46 Government Code ~~[, or~~

5-47 ~~[(2) is eligible for optional membership in the~~  
 5-48 ~~retirement system under Subchapter C].~~

5-49 SECTION 9. Section 842.107, Government Code, is amended to  
 5-50 read as follows:

5-51 Sec. 842.107. OPTIONAL [EXCEPTION TO GENERAL] MEMBERSHIP  
 5-52 [REQUIREMENT]. (a) A subdivision may authorize to be a member of  
 5-53 the retirement system a person who is accruing benefits in another  
 5-54 statewide retirement system for service in an elected or appointed  
 5-55 judicial or district office or as an employee of the state or a  
 5-56 governmental unit of the state during the same period the person is  
 5-57 receiving supplemental compensation from the subdivision. A person  
 5-58 described by this subsection who is first included for optional  
 5-59 membership after December 31, 2005, may not contribute to the  
 5-60 employees saving fund or receive any service credit for any  
 5-61 supplemental compensation received before the date the subdivision  
 5-62 makes the person eligible to become a member.

5-63 (b) The board by rule may establish reasonable restrictions  
 5-64 and limitations on the granting of membership and service credit  
 5-65 under this section [A subdivision that was participating in the  
 5-66 retirement system before January 1, 1987, and that had in effect  
 5-67 before that date and continues to have a policy of hiring new  
 5-68 personnel on a probationary basis for a specified period may  
 5-69 exclude new personnel from membership during the probationary

6-1 ~~period but may not, for purposes of retirement system membership,~~  
 6-2 ~~increase the length of the probationary period beyond the length of~~  
 6-3 ~~the period in effect on January 1, 1987. The subdivision may reduce~~  
 6-4 ~~or eliminate the period].~~

6-5 SECTION 10. Section 842.108, Government Code, is amended by  
 6-6 amending Subsections (a) and (c) and by adding Subsection (a-1) to  
 6-7 read as follows:

6-8 (a) A person, or the beneficiary of a person, whose  
 6-9 membership terminated before January 1, 2005, as a result of  
 6-10 absence from service may submit an application to withdraw all of  
 6-11 the person's accumulated contributions attributable to the  
 6-12 terminated membership.

6-13 (a-1) The accumulated contributions attributable to a  
 6-14 terminated membership described by Subsection (a) are held by the  
 6-15 retirement system in a noninterest-bearing account and may not be  
 6-16 considered deposits under Section 843.003 or 843.0031 until the  
 6-17 person:

- 6-18 (1) again becomes a member;
- 6-19 (2) is eligible under Section 843.003 or 843.0031; and
- 6-20 (3) submits an application to the system.

6-21 (c) Except for a terminated membership described by  
 6-22 Subsection (a), interest [Interest] is computed on the balance in  
 6-23 the member's individual account in the employees saving fund on  
 6-24 January 1 of the year of withdrawal through the month before the  
 6-25 month in which the withdrawal occurs for a person described by  
 6-26 Subsection (b) [and on January 1 of the year of membership  
 6-27 termination through the month before the month in which the  
 6-28 membership terminates for a person described by Subsection (a)  
 6-29 whose membership terminates after December 31, 1999].

6-30 SECTION 11. Sections 842.109(a) and (b), Government Code,  
 6-31 are amended to read as follows:

6-32 (a) A person terminates membership in the retirement system  
 6-33 by:

- 6-34 (1) death;
- 6-35 (2) retirement from all participating subdivisions
- 6-36 with which the person has service credit; or
- 6-37 (3) withdrawal of all of the person's accumulated
- 6-38 contributions [~~or~~
- 6-39 ~~[(4) absence from service for five consecutive years~~
- 6-40 ~~before accumulating four or more years of credited service].~~

6-41 (b) A person's membership in the retirement system may not  
 6-42 extend beyond the required beginning date determined in accordance  
 6-43 with Section 841.010 [March 31 of the year following the later of  
 6-44 the year in which the person attains age 70-1/2 or the year in which  
 6-45 the person is no longer an employee of any participating  
 6-46 subdivision].

6-47 SECTION 12. Section 842.110, Government Code, is amended to  
 6-48 read as follows:

6-49 Sec. 842.110. RESUMPTION OF SERVICE [~~WITH SAME EMPLOYER~~] BY  
 6-50 RETIREE. (a) Except as provided by Subsection (b), a person who  
 6-51 has retired from a participating subdivision with a service  
 6-52 retirement annuity based on a bona fide termination of employment  
 6-53 and with a break in service of not less than one calendar month  
 6-54 resumes membership in the retirement system without suspension of  
 6-55 the person's annuity if the person becomes an employee of any  
 6-56 participating subdivision.

6-57 (b) A person who resumes employment with the same  
 6-58 subdivision from which the person was previously employed and does  
 6-59 not meet the requirements of Subsection (a) is considered not to  
 6-60 have retired with respect to that subdivision. The person's  
 6-61 service retirement annuity will be discontinued, the person's  
 6-62 membership will be restored, and the person must return any  
 6-63 payments received. Appropriate adjustments will be made for any  
 6-64 amounts not returned.

6-65 (c) A membership established under the requirements of  
 6-66 Subsection (a) is considered to be a new membership for the purposes  
 6-67 of beneficiary determinations and benefit selections.

6-68 (d) After terminating employment with a participating  
 6-69 subdivision, a member who has previously retired with a service

7-1 retirement annuity under this subtitle and who meets the  
 7-2 requirements of Subsection (a) is eligible to apply for and receive  
 7-3 an additional standard or optional service retirement annuity or a  
 7-4 refund of the member's accumulated contributions for service with  
 7-5 the subdivision, without regard to any age or credited service  
 7-6 requirement, except as provided by Subsection (f).

7-7 (e) On the death of a member who meets the requirement of  
 7-8 Subsection (d), a person may apply for and receive an optional  
 7-9 service retirement annuity or a refund of the decedent's  
 7-10 accumulated contributions in the manner provided by Subsection (d),  
 7-11 except as provided by Subsection (f).

7-12 (f) The waiver of an age or credited service requirement  
 7-13 under this section does not apply to a person who becomes eligible  
 7-14 to retire solely as a result of a subdivision's termination of  
 7-15 participation under Subchapter A-1, Chapter 842. [In this section,  
 7-16 "reemploying subdivision" is a subdivision for which a person  
 7-17 previously has performed creditable service and is receiving or  
 7-18 would receive a retirement annuity except for this section.

7-19 [~~(b) A person who has retired with a service retirement  
 7-20 annuity under this subtitle shall, if the person later becomes an  
 7-21 employee of a reemploying subdivision, become a member of the  
 7-22 system on the date of reemployment, but credits and benefits  
 7-23 payable to the person under this subtitle are limited as provided by  
 7-24 this section.~~

7-25 [~~(c) The retirement system shall suspend payments of each  
 7-26 service retirement annuity allowed because of the person's previous  
 7-27 service with a reemploying subdivision, beginning with the month  
 7-28 the retirement system determines that the person has resumed  
 7-29 employment with the reemploying subdivision. After the  
 7-30 determination, the retirement system may not make payments of the  
 7-31 annuity for any month during which the person remains an employee of  
 7-32 the reemploying subdivision. The retirement system shall transfer  
 7-33 annuity payments that become due and would be payable to the retiree  
 7-34 except for the suspension to a non-interest-bearing account in the  
 7-35 endowment fund. The suspension of a benefit under this section does  
 7-36 not suspend payment of a benefit to an alternate payee under a  
 7-37 qualified domestic relations order.~~

7-38 [~~(d) The retirement system shall establish an individual  
 7-39 account for the member in the employees saving fund for accumulated  
 7-40 contributions credited after reemployment with the subdivision.  
 7-41 After terminating employment with the reemploying subdivision, a  
 7-42 member may elect either an additional standard or optional service  
 7-43 retirement annuity based on the additional service with the  
 7-44 reemploying subdivision or a refund of the member's accumulated  
 7-45 contributions since reemployment.~~

7-46 [~~(e) After termination of employment with the reemploying  
 7-47 subdivision and filing with the retirement system an application  
 7-48 for resumption of the suspended annuity, a person described by  
 7-49 Subsection (b) is entitled to receive the payments of the suspended  
 7-50 annuity that had been transferred to the endowment fund and future  
 7-51 payments of the suspended annuity.~~

7-52 [~~(f) Beginning with the month following the month in which a  
 7-53 retiree's employment is terminated with a reemploying subdivision  
 7-54 by death or other separation from service, future payments of the  
 7-55 suspended annuity become payable to each person entitled to the  
 7-56 annuity in the same amounts that would be payable if the annuity had  
 7-57 not been suspended.~~

7-58 [~~(g) If a person with credited service under this section  
 7-59 dies before a payment under Subsection (e) is made, monthly  
 7-60 payments of a suspended annuity will resume under the terms of the  
 7-61 retirement annuity originally selected by the decedent, or a person  
 7-62 may make an election under Subsection (d) in the order of preference  
 7-63 provided by Section 844.407.]~~

7-64 SECTION 13. Subchapter B, Chapter 842, Government Code, is  
 7-65 amended by amending Section 842.112 and adding Section 842.113 to  
 7-66 read as follows:

7-67 Sec. 842.112. CORRECTION OF ERRORS. (a) The retirement  
 7-68 system may correct an [~~any administrative or operational~~] error  
 7-69 caused by an act or omission of the retirement system by any

8-1 appropriate means [~~taking into account any applicable Internal~~  
8-2 ~~Revenue Service guidelines~~].

8-3 (b) If an act or omission of a participating subdivision  
8-4 causes a person to receive more or less credited service, service  
8-5 credit, or benefits than the person is entitled to receive, the  
8-6 correction of the error is the responsibility of the subdivision.

8-7 (c) An error caused by an act or omission of a participating  
8-8 subdivision may be corrected:

8-9 (1) by the subdivision on its own motion if approved by  
8-10 the retirement system and if satisfactory proof of the error is  
8-11 submitted to the retirement system; or

8-12 (2) through a judicial or quasi-judicial proceeding  
8-13 between the person and the participating subdivision resulting in a  
8-14 judgment, order, or settlement agreement that meets the  
8-15 requirements of Section 842.113.

8-16 (d) A person seeking the correction of an error relating to  
8-17 membership, rights, benefits, or benefit payments under the  
8-18 retirement system must timely provide to the appropriate  
8-19 subdivision or the retirement system written notice specifically  
8-20 describing the error. The written notice must be received before  
8-21 the first anniversary of the earlier of the date the person  
8-22 discovers the error or the date a reasonable, diligent person  
8-23 should have discovered the error.

8-24 (e) If the act of a third person causes the retirement  
8-25 system to make a payment to someone other than the person entitled  
8-26 to the payment, the system shall, after receiving credible evidence  
8-27 of an erroneous payment, determine the person entitled to the  
8-28 benefit and, if necessary, adjust future payments to the extent  
8-29 practicable to ensure that the present value of the remainder of the  
8-30 benefit will be paid to the person entitled to it.

8-31 (f) The retirement system is not liable for any payments  
8-32 made before the date the system receives credible evidence of an  
8-33 erroneous payment. Any payments made before that date are a  
8-34 complete discharge of the system's responsibility for those  
8-35 payments and benefits.

8-36 (g) A recipient who receives a payment to which the  
8-37 recipient is not entitled holds the payment in constructive trust  
8-38 for the person entitled to the payment.

8-39 Sec. 842.113. JUDGMENTS, ORDERS, AND SETTLEMENT  
8-40 AGREEMENTS. (a) If, as a result of a suit against a  
8-41 participating subdivision in a court of competent jurisdiction or  
8-42 as a result of a complaint or grievance against a participating  
8-43 subdivision filed with the United States Equal Employment  
8-44 Opportunity Commission, the civil rights division of the Texas  
8-45 Workforce Commission [~~on Human Rights~~], or a county civil service  
8-46 commission, a judgment or order is issued or a settlement agreement  
8-47 is executed, the terms of which require that a person's membership  
8-48 record be adjusted with respect to the person's account balance,  
8-49 service credit, or credited service, the retirement system shall  
8-50 make appropriate adjustments [~~an employee receive back pay or that~~  
8-51 a person be employed or reemployed for a specified period and  
8-52 require that the person receive service credit toward retirement  
8-53 based on the back pay or both service credit and credited service  
8-54 for the specified period of employment or reemployment, on written  
8-55 application to the retirement system, the system shall grant the  
8-56 service credit and credited service] if:

8-57 (1) the judgment or order has become final and is no  
8-58 longer subject to appeal;

8-59 (2) a certified copy of the judgment, order, or  
8-60 settlement agreement accompanies the application; and

8-61 (3) the retirement system receives payment on behalf  
8-62 of the person in an amount equal to the contributions the person  
8-63 would have made to the system if the acts or omissions that resulted  
8-64 in the order, judgment, or settlement agreement requiring an  
8-65 adjustment to the person's membership record had not occurred or,  
8-66 if restoration of a refunded account is required, the system  
8-67 receives payment on behalf of the person in an amount equal to the  
8-68 amount withdrawn [~~back pay or additional service had been reported~~  
8-69 to the system, and



9-1 ~~[(4) the retirement system receives payment from the~~  
 9-2 ~~subdivision in an amount equal to the additional contributions that~~  
 9-3 ~~the subdivision would have made to the system for the additional~~  
 9-4 ~~service credit].~~

9-5 (b) The retirement system may not implement an order,  
 9-6 judgment, or settlement agreement in a manner that would grant a  
 9-7 person a status, right, or benefit not otherwise available under  
 9-8 this subtitle.

9-9 (c) The retirement system may seek, or require the parties  
 9-10 to seek, clarification or modification of any judgment or order, or  
 9-11 may require the parties to provide a binding agreement as to the  
 9-12 interpretation of any settlement if the director determines that  
 9-13 the terms of the judgment, order, or agreement are unclear or cannot  
 9-14 be feasibly implemented by the system.

9-15 SECTION 14. Section 843.103, Government Code, is amended to  
 9-16 read as follows:

9-17 Sec. 843.103. STATEMENT OF PRIOR SERVICE. A member  
 9-18 eligible to receive prior service credit shall claim the credit by  
 9-19 filing a detailed statement of the service with the [~~treasurer or~~  
 9-20 ~~other disbursing officer of the~~] subdivision for which the service  
 9-21 was performed. The statement must be filed before the fifth  
 9-22 anniversary of the date the person becomes a member as an employee  
 9-23 of the subdivision.

9-24 SECTION 15. Sections 843.601(c) and (f), Government Code,  
 9-25 are amended to read as follows:

9-26 (c) The governing body of a participating subdivision also  
 9-27 may, on the terms provided by Section 844.704, authorize the  
 9-28 establishment of credited service [~~for current service~~] in the  
 9-29 retirement system for qualified active duty military service as  
 9-30 provided by this subsection. Qualified military service includes  
 9-31 military service before becoming an employee of the subdivision. A  
 9-32 member eligible to establish credited service [~~for current service~~]  
 9-33 under this subsection is one who has credited service in the  
 9-34 retirement system for at least the minimum period required to  
 9-35 receive a service retirement annuity at the age of 60 from the  
 9-36 subdivision from which credit under this subsection is sought [~~and~~  
 9-37 ~~who does not receive and is not eligible to receive federal~~  
 9-38 ~~retirement payments based on 20 years or more of active federal~~  
 9-39 ~~military duty or its equivalent]. An eligible member may establish~~  
 9-40 credited service [~~for current service~~] under this subsection by  
 9-41 filing an application with the retirement system.

9-42 (f) Credited service [~~Credit~~] may not be established under  
 9-43 this section for any month of service that is credited under another  
 9-44 section of this subtitle or by another retirement system or program  
 9-45 established or governed by state law.

9-46 SECTION 16. Section 844.002(c), Government Code, is amended  
 9-47 to read as follows:

9-48 (c) A supplemental annuity is an amount payable from the  
 9-49 subdivision accumulation fund, subject to reduction under Section  
 9-50 842.054, 842.055, 842.056, 842.057 [~~842.008(d), 842.009(d),~~  
 9-51 ~~842.010(c)]~~, or 845.307(c), and is actuarially determined from the  
 9-52 sum of:

9-53 (1) a member's allocated prior service credit,  
 9-54 accumulated at interest as provided by Section 843.105(d); and

9-55 (2) a member's multiple matching credit, accumulated  
 9-56 at interest as provided by Section 843.403(d).

9-57 SECTION 17. Section 844.003(d), Government Code, is amended  
 9-58 to read as follows:

9-59 (d) A member who is eligible for service retirement and who  
 9-60 terminates employment with a participating subdivision may apply  
 9-61 for and receive a service retirement annuity based on service for  
 9-62 that subdivision despite the fact that the member is or becomes an  
 9-63 employee of another participating subdivision. Credited service  
 9-64 with the member's new employer may be used in determining  
 9-65 eligibility for service retirement. A member who is eligible for  
 9-66 service retirement using combined credited service for two or more  
 9-67 subdivisions may simultaneously apply for and receive a service  
 9-68 retirement annuity for service to one subdivision and a refund of  
 9-69 accumulated contributions for service to another subdivision. A

10-1 person who retires under this subsection is considered for all  
 10-2 purposes to be a retiree who resumes service with a different  
 10-3 employer under Section 842.110 [~~842.111~~].

10-4 SECTION 18. Section 844.208(b), Government Code, is amended  
 10-5 to read as follows:

10-6 (b) The amount of annuity increase under this section is  
 10-7 computed as the sum of the basic and supplemental annuities on the  
 10-8 effective date of retirement of the person on whose service the  
 10-9 annuities are based or, if the person's current annuity has been  
 10-10 increased under Section 844.006(c) or (d), 844.104(c)(5), or  
 10-11 844.305(c)(5), the sum of the basic and supplemental annuities is  
 10-12 computed as if the person had selected a standard service or  
 10-13 disability retirement annuity on the person's effective date of  
 10-14 retirement, multiplied by:

10-15 (1) the percentage change in the Consumer Price Index  
 10-16 for All Urban Consumers, published by the Bureau of Labor  
 10-17 Statistics of the United States Department of Labor, from December  
 10-18 of the year immediately preceding the effective date of the  
 10-19 person's retirement to the December that is 13 months before the  
 10-20 month in which the effective date of the order or resolution  
 10-21 providing the increase occurs; and

10-22 (2) a fraction, specified by the governing body in the  
 10-23 order or resolution, that is not less than 30 percent nor more than  
 10-24 100 [~~80~~] percent and is a multiple of 10 percent.

10-25 SECTION 19. Section 844.209(c), Government Code, is amended  
 10-26 to read as follows:

10-27 (c) The amount of annuity increase under this section is  
 10-28 computed as the sum of the person's basic and supplemental  
 10-29 annuities on the effective date of the increase multiplied by the  
 10-30 integer percentage increase specified by the governing body for all  
 10-31 annuitants in the order or resolution adopting the increase. The  
 10-32 specified percentage increase may not exceed the percentage  
 10-33 established by the board of trustees as the maximum allowable  
 10-34 percentage increase.

10-35 SECTION 20. Section 844.408(b), Government Code, is amended  
 10-36 to read as follows:

10-37 (b) If a surviving spouse or the executor or administrator  
 10-38 of a deceased member's estate would be entitled to make an election  
 10-39 under Section 842.110 [~~or 842.111~~], or if a beneficiary or the  
 10-40 executor or administrator of a deceased member's estate would be  
 10-41 entitled to make an election under Section 844.407 because of the  
 10-42 death of the member, the heirs of the deceased member may make that  
 10-43 election if:

10-44 (1) no surviving spouse exists, or, if Section 844.407  
 10-45 is applicable, no surviving beneficiary exists;

10-46 (2) no petition for the appointment of a personal  
 10-47 representative of the member is pending or has been granted;

10-48 (3) 30 days have elapsed since the date of death of the  
 10-49 member;

10-50 (4) the value of the entire assets of the member's  
 10-51 estate, excluding homestead and exempt property, does not exceed  
 10-52 \$50,000; and

10-53 (5) on file with the retirement system is a certified  
 10-54 copy of a small estates affidavit that has been approved and filed  
 10-55 in accordance with Section 137, Texas Probate Code, or an original  
 10-56 affidavit described by Subsection (c).

10-57 SECTION 21. Section 844.703, Government Code, is amended by  
 10-58 adding Subsection (i) to read as follows:

10-59 (i) Notwithstanding any provision in this section to the  
 10-60 contrary and if approved by the board of trustees, a participating  
 10-61 subdivision that has experienced or is anticipating circumstances  
 10-62 that cause employer contributions based on covered payroll to be an  
 10-63 unreasonable method of funding shall contribute in an actuarially  
 10-64 approved method that is reasonable to regularly and consistently  
 10-65 fund all of its pension liabilities in the retirement system.

10-66 SECTION 22. Sections 844.704(a), (b), and (d), Government  
 10-67 Code, are amended to read as follows:

10-68 (a) On the adoption of the plan provisions of this  
 10-69 subchapter, the governing body of the subdivision shall select a

11-1 percentage for determining multiple matching credits under Section  
 11-2 843.403. The governing body shall select a percentage of zero or  
 11-3 any percentage that is a multiple of five percent and that does not  
 11-4 exceed [0, 25, 50, 75, 100, 125, or] 150 percent, or it may select  
 11-5 the multiple matching percentage that the subdivision has in effect  
 11-6 on the date of its adoption of the plan provisions of this  
 11-7 subchapter. The governing body may later increase the percentage  
 11-8 used in determining multiple matching credits under Section 843.403  
 11-9 to any percentage that is a multiple of five percent to take effect  
 11-10 on the next January 1 after the date the increase is adopted, except  
 11-11 that the sum of the percentage for current service credits under  
 11-12 Section 843.403 and the percentage for multiple matching credits  
 11-13 [If a subdivision has a current service credit percentage in excess  
 11-14 of 100 percent, the governing body of the subdivision may elect a  
 11-15 percentage under this section that, when added to the current  
 11-16 service credit percentage, is a multiple of 25 percent, except that  
 11-17 the combined percentages] may not exceed 250 percent. In its order  
 11-18 or resolution, the governing body may provide that the increased  
 11-19 percentage will be used in determining multiple matching credits  
 11-20 under Section 843.403 only for employee contributions made after  
 11-21 the effective date of the increase or that the increased percentage  
 11-22 will be used both prospectively and retroactively in determining  
 11-23 the multiple matching credits for all employee contributions not  
 11-24 otherwise matched at a higher percentage. The governing body may  
 11-25 thereafter reduce [increase] the percentage used in determining  
 11-26 multiple matching credits under Section 843.403 for contributions  
 11-27 made after the effective date of the reduction to zero or any  
 11-28 percentage that is a multiple of five percent [one of the  
 11-29 percentages specified in this subsection], to take effect on the  
 11-30 next January 1 after the date of the reduction [increase. However,  
 11-31 the sum of the percentage for current service credits under Section  
 11-32 843.403 and the percentage for multiple matching credits may not  
 11-33 exceed 250 percent. The governing body also may thereafter reduce  
 11-34 the percentage used in determining multiple matching credits for  
 11-35 contributions made after the effective date of the reduction to one  
 11-36 of the percentages specified in this subsection, to take effect on  
 11-37 the next January 1 after the date of the reduction].

11-38 (b) On the adoption of the plan provisions of this  
 11-39 subchapter, the governing body shall select a percentage for  
 11-40 determining allocated prior service credits under Section 843.105.  
 11-41 The governing body shall select a percentage that is a multiple of  
 11-42 five percent. For a subdivision that began participation before  
 11-43 January 1, 1992, the percentage cannot be less than the percentage  
 11-44 in effect immediately before the adoption of the plan. The  
 11-45 governing body may increase the percentage used in determining  
 11-46 allocated prior service credits under Section 843.105, to take  
 11-47 effect on the next January 1 after the date of the increase. The  
 11-48 percentage may not exceed one-half of the percentage that results  
 11-49 from adding 200 percent to the lowest percentage for determining  
 11-50 multiple matching credit currently applicable to any employee  
 11-51 contribution with respect to the subdivision. [The selection of or  
 11-52 increase in the percentage used in determining allocated prior  
 11-53 service credits may not result in greater benefits being provided  
 11-54 for completed service than would be provided through current  
 11-55 service credits and multiple matching credits for service that is  
 11-56 performed in the future.]

11-57 (d) The governing body of a subdivision that has adopted or  
 11-58 is adopting the plan provisions of this subchapter may adopt or  
 11-59 authorize:

- 11-60 (1) an increase in retirement annuities under Section  
 11-61 844.209;
- 11-62 (2) an increase in retirement annuities under Section  
 11-63 844.208;
- 11-64 (3) the reestablishment of [credited] service credit  
 11-65 previously forfeited under Section 843.003;
- 11-66 (4) the establishment of credited service for military  
 11-67 service under Section 843.601(c);
- 11-68 (5) [the establishment of premembership credited  
 11-69 service for overage employees under Section 843.204;

12-1                   ~~[(6)]~~ the benefit eligibility plan described by  
12-2 Section 844.210, 844.211, or 844.212; or

12-3                   (6) ~~[(7)]~~ the partial lump-sum distribution on  
12-4 service retirement under Section 844.009.

12-5                   SECTION 23. Section 845.114(b), Government Code, is amended  
12-6 to read as follows:

12-7                   (b) The board may require reports from the participating  
12-8 subdivisions for the efficient handling of members' deposits. A  
12-9 ~~[The treasurer or other payroll disbursing officer of each]~~  
12-10 participating subdivision shall:

12-11                   (1) prepare the reports in the form specified by the  
12-12 board; and

12-13                   (2) file the reports at the time specified by the  
12-14 board.

12-15                   SECTION 24. Section 845.305, Government Code, is amended to  
12-16 read as follows:

12-17                   Sec. 845.305. CREDITING SYSTEM ASSETS. (a) The retirement  
12-18 system shall ~~[immediately]~~ deposit all receipts ~~[money received by~~  
12-19 ~~the system]~~ with a depository designated under Section 845.109 or a  
12-20 custodian designated under Section 845.302.

12-21                   (b) All assets of the pension trust of the retirement system  
12-22 shall be credited according to the purpose for which they are held  
12-23 to one of the following funds:

- 12-24                   (1) employees saving fund;
- 12-25                   (2) subdivision accumulation fund;
- 12-26                   (3) current service annuity reserve fund;
- 12-27                   (4) interest fund;
- 12-28                   (5) endowment fund; or
- 12-29                   (6) expense fund~~[, or~~
- 12-30                   ~~[(7) supplemental death benefits fund].~~

12-31                   (c) Amounts contributed by a subdivision to provide  
12-32 optional group term life insurance for its participating employees  
12-33 and retirees shall be deposited to the fund of the supplemental  
12-34 death benefits trust.

12-35                   SECTION 25. Section 845.306(a), Government Code, is amended  
12-36 to read as follows:

12-37                   (a) The retirement system shall deposit in a member's  
12-38 individual account in the employees saving fund:

12-39                   (1) the amount of contributions to the retirement  
12-40 system deducted from the member's compensation;

12-41                   (2) interest allowed ~~[on money in the account]~~ in  
12-42 accordance with this subtitle;

12-43                   (3) the contribution made by a member in an amount  
12-44 equal to the amount withdrawn to reinstate service credit under  
12-45 [portion of a deposit required by] Section 843.003 [to reinstate  
12-46 credited service previously terminated that represents the amount  
12-47 withdrawn];

12-48                   (4) the amount deposited by a member in accordance  
12-49 with Section 843.0031 [this subtitle to establish credit for prior  
12-50 or current service for a person who became a member in accordance  
12-51 with Subchapter C, Chapter 842]; and

12-52                   (5) the amount contributed[, if any, deposited] by a  
12-53 member in accordance with Section 843.601(b) to establish current  
12-54 service credit for military service under the Uniformed Services  
12-55 Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section  
12-56 4301 et seq.) [, and

12-57                   ~~[(6) the amount deposited by a person to become a~~  
12-58 ~~member in accordance with Section 842.103].~~

12-59                   SECTION 26. Section 845.307(a), Government Code, is amended  
12-60 to read as follows:

12-61                   (a) The retirement system shall credit or charge to [deposit  
12-62 in] the account of a participating subdivision in the subdivision  
12-63 accumulation fund:

12-64                   (1) all benefit contributions made by the subdivision  
12-65 to the system pursuant to Section 845.404(a)(2);

12-66                   (2) net investment income or loss allocated to the  
12-67 fund under Section 845.315 [as provided by this subtitle];

12-68                   (3) amounts deposited by the subdivision under Section  
12-69 845.408;

13-1 (4) the withdrawal charge for reinstatement of  
13-2 [~~credited~~] service credit as provided by Section 843.003; and

13-3 (5) other credits and charges that may be authorized  
13-4 under this subtitle [~~the amount of matching contributions made by a~~  
13-5 ~~subdivision in accordance with this subtitle to establish credit~~  
13-6 ~~for prior or current service for a person who became a member in~~  
13-7 ~~accordance with Subchapter C, Chapter 842, and~~

13-8 [~~(6) the amount deposited by a subdivision for a~~  
13-9 ~~person to become a member in accordance with Section 842.103].~~

13-10 SECTION 27. Sections 845.309(a), (b), and (c), Government  
13-11 Code, are amended to read as follows:

13-12 (a) The interest fund shall account for the determination  
13-13 and allocation of net investment income or loss [~~must contain~~  
13-14 ~~accounts for:~~

13-15 [~~(1) distributable income,~~  
13-16 [~~(2) nondistributable income,~~  
13-17 [~~(3) investment expenses, and~~  
13-18 [~~(4) other accounts the board of trustees establishes~~  
13-19 ~~by resolution].~~

13-20 (b) Net investment income or loss will be determined  
13-21 annually as [As] of December 31 [~~of each year, the nondistributable~~  
13-22 ~~income account will be adjusted by the net change in carrying value~~  
13-23 ~~necessary to value at market all domestic, fixed-income securities~~  
13-24 ~~owned by the retirement system as part of a passively managed,~~  
13-25 ~~long-term portfolio].~~

13-26 (c) Net investment income or loss will be allocated each  
13-27 year in accordance with Section 845.315 [~~The distributable income~~  
13-28 ~~account will be credited with:~~

13-29 [~~(1) all income, interest, and dividends from deposits~~  
13-30 ~~and investments of the retirement system,~~

13-31 [~~(2) all changes in carrying value of the investments~~  
13-32 ~~described by Subsection (b) resulting from amortization,~~  
13-33 ~~accretion, accrual of interest payments as principal, or other~~  
13-34 ~~change in carrying value not resulting from a change in market~~  
13-35 ~~value,~~

13-36 [~~(3) all net capital gains and losses resulting from~~  
13-37 ~~the sale, call, maturity, or conversion of investments of the~~  
13-38 ~~retirement system,~~

13-39 [~~(4) all changes in carrying values of investments of~~  
13-40 ~~the retirement system except those to be credited in accordance~~  
13-41 ~~with Subsection (b), and~~

13-42 [~~(5) any amounts that the board of trustees transfers~~  
13-43 ~~under Section 845.310(e)].~~

13-44 SECTION 28. Section 845.310, Government Code, is amended by  
13-45 amending Subsections (a), (c), (d), and (e) and by adding  
13-46 Subsection (c-1) to read as follows:

13-47 (a) The endowment fund consists of the general reserves  
13-48 account and other accounts as necessary [~~The retirement system~~  
13-49 ~~shall deposit and hold in the endowment fund gifts, awards, funds,~~  
13-50 ~~and assets delivered to the retirement system:~~

13-51 [~~(1) that are not specifically required by the~~  
13-52 ~~system's other funds, or~~

13-53 [~~(2) that are designated by the grantor as perpetual~~  
13-54 ~~endowments for the system].~~

13-55 (c) The retirement system shall credit or charge to the  
13-56 general reserves account amounts [~~income] allocated to the~~  
13-57 endowment fund in accordance with Section 845.315.

13-58 (c-1) As of December 31, the board of trustees shall provide  
13-59 from the general reserves account the amount needed to pay the  
13-60 retirement system's estimated operating expenses for the next  
13-61 fiscal year.

13-62 (d) The board of trustees may allocate any amount in the  
13-63 endowment fund to any other account or fund in the pension trust  
13-64 [~~shall transfer money from the general reserves account to the~~  
13-65 ~~expense fund in accordance with Section 845.311(b)].~~

13-66 (e) Any allocation of reserves to an account of a  
13-67 subdivision to which Section 842.052, 842.053, or 845.317 applies  
13-68 must be specifically authorized by board resolution [~~If the board~~  
13-69 ~~of trustees determines that the amount in the general reserves~~

14-1 ~~account as of December 31 of any year is in excess of the amount~~  
 14-2 ~~necessary to provide adequate funding and reserves for all needs~~  
 14-3 ~~and contingencies, the board may by resolution transfer part or all~~  
 14-4 ~~of the excess to the distributable income account of the interest~~  
 14-5 ~~fund for distribution].~~

14-6 SECTION 29. Section 845.311, Government Code, is amended to  
 14-7 read as follows:

14-8 Sec. 845.311. EXPENSE FUND. The expense fund shall account  
 14-9 for the administrative revenues and expenses of the retirement  
 14-10 system [~~(a) The board of trustees by resolution recorded in its~~  
 14-11 ~~minutes shall transfer from the general reserves account of the~~  
 14-12 ~~endowment fund to the expense fund the amount that is needed to pay~~  
 14-13 ~~the system's estimated cash outlays for administrative and~~  
 14-14 ~~investment expenses for the next fiscal year].~~

14-15 [~~(b) The retirement system shall pay from the expense fund:~~

14-16 [~~(1) administrative and maintenance expenses of the~~  
 14-17 ~~system;~~

14-18 [~~(2) notes and bonds issued in accordance with Section~~  
 14-19 ~~845.105; and~~

14-20 [~~(3) investment expenses of the system.]~~

14-21 SECTION 30. Sections 845.315 and 845.317, Government Code,  
 14-22 are amended to read as follows:

14-23 Sec. 845.315. ANNUAL ALLOCATION OF NET INVESTMENT INCOME OR  
 14-24 LOSS [~~TRANSFER OF ASSETS FROM INTEREST FUND~~]. (a) As of December  
 14-25 31 of each year [~~and after the balance of the investment expenses~~  
 14-26 ~~account has been transferred to the distributable income account],~~  
 14-27 the board of trustees shall make the following allocations that in  
 14-28 the aggregate equal the net investment income or loss for the year  
 14-29 [~~transfer from the distributable income account of the interest~~  
 14-30 ~~fund the following amounts]:~~

14-31 (1) to the current service annuity reserve fund,  
 14-32 interest as allowed under this subtitle on the mean amount in the  
 14-33 current service annuity reserve fund during that year;

14-34 (2) to the supplemental death benefits fund, interest  
 14-35 as allowed under this subtitle on the mean amount in the  
 14-36 supplemental death benefits fund during that year;

14-37 (3) to the general reserves account of the endowment  
 14-38 fund, a positive or negative amount determined by the board [~~dollar~~  
 14-39 ~~amount determined by the board of trustees as necessary to provide~~  
 14-40 ~~adequate funding of the endowment fund, including provisions for~~  
 14-41 ~~all special needs, all contingencies, replenishment of the amount~~  
 14-42 ~~transferred during the current year to the employees saving fund~~  
 14-43 ~~for interest to retiring or deceased members plus the matching~~  
 14-44 ~~amount transferred to the subdivision accumulation fund, and~~  
 14-45 ~~funding of investment expenses and administrative costs for the~~  
 14-46 ~~following year];~~

14-47 (4) to the employees saving fund, current interest as  
 14-48 allowed under this subtitle on the member account balances on  
 14-49 January 1 of that year of [~~on the sum of the accumulated~~  
 14-50 ~~contributions in the employees saving fund credited on January 1 of~~  
 14-51 ~~that year to] all persons who are members on December 31 of that~~  
 14-52 ~~year [before any transfers for retirement effective December 31 of~~  
 14-53 ~~that year are made]; [and]~~

14-54 (5) to the accounts of subdivisions, other than  
 14-55 subdivisions otherwise described by this section, an amount derived  
 14-56 by applying a positive or negative rate, as determined by the board,  
 14-57 to the January 1 balances of that year; and

14-58 (6) to the accounts of subdivisions to which Section  
 14-59 842.052 or 842.053 applies, positive or negative amounts as  
 14-60 determined by the board [~~subdivision accumulation fund, the~~  
 14-61 ~~remaining balance of the distributable income account in the~~  
 14-62 ~~interest fund after transfers provided for by Subdivisions (1),~~  
 14-63 ~~(2), (3), and (4) have been made].~~

14-64 (b) The account of [~~each subdivision, other than] a~~  
 14-65 ~~subdivision that has ceased participation according to Section~~  
 14-66 ~~845.317(a)] will not receive an allocation under this section [~~a~~  
 14-67 ~~share of the amount transferred under Subsection (a)(5) that is in~~  
 14-68 ~~proportion to the amount that the balance credited to its account on~~  
 14-69 ~~January 1 bears to the total credited to the subdivision~~~~

15-1 ~~accumulation fund on that date].~~

15-2 Sec. 845.317. PAYMENT TO FORMERLY PARTICIPATING  
15-3 SUBDIVISION. (a) If a participating subdivision, other than a  
15-4 subdivision described by Subsection (b), has no employees who are  
15-5 members of the retirement system and has no present or potential  
15-6 liabilities resulting from the participation of former employees,  
15-7 the subdivision's participation in the system stops and the system  
15-8 shall repay to the subdivision on application any amount in the  
15-9 subdivision accumulation fund that is credited to the subdivision.

15-10 (b) If the participation of a subdivision has terminated  
15-11 under Section 842.052 or 842.053 and the subdivision has no present  
15-12 or potential liabilities resulting from the participation of  
15-13 current or former employees, the retirement system, after  
15-14 application by the subdivision or its successor in interest, shall  
15-15 pay to the subdivision or its successor any remaining credit to the  
15-16 account of the subdivision in the subdivision accumulation fund [a  
15-17 participating subdivision does not exist as a separate entity  
15-18 because it has merged or consolidated with a city or other agency  
15-19 that is not eligible to participate in the retirement system and if  
15-20 under the applicable law or merger agreement the successor is  
15-21 entitled to the assets of the subdivision, the retirement system,  
15-22 on application, shall pay to the successor the amount in the  
15-23 subdivision accumulation fund that is credited to the subdivision].

15-24 (c) A subdivision that has terminated participation in the  
15-25 retirement system has no right or claim to any amounts in the  
15-26 system, except as provided by this section.

15-27 SECTION 31. Sections 845.403(e), (g), and (j), Government  
15-28 Code, are amended to read as follows:

15-29 (e) ~~Each [The treasurer or disbursing officer of each]~~  
15-30 participating subdivision shall:

15-31 (1) make deductions from each member's compensation  
15-32 for contributions to the retirement system;

15-33 (2) transmit monthly, or at the time designated by the  
15-34 board of trustees, the payroll and other pertinent information  
15-35 prescribed by the board; and

15-36 (3) pay the deductions to the board of trustees at the  
15-37 board's home office.

15-38 (g) ~~The [treasurer or disbursing officer of a]~~  
15-39 participating subdivision shall make the deductions required by  
15-40 this section even if the member's compensation is reduced below the  
15-41 amount equal to the minimum compensation provided by law.

15-42 (j) Contributions picked up as provided by Subsection (i)  
15-43 shall be treated as employer contributions in determining tax  
15-44 treatment of the amounts under Section 414(h) of the United States  
15-45 Internal Revenue Code of 1986. Each employee contribution that is  
15-46 picked up ~~[as above provided]~~ shall be deposited as provided in  
15-47 Section 845.306 to the individual account of the member, on whose  
15-48 behalf the contribution is [they are] made, and shall be treated for  
15-49 all other purposes of this subtitle in the same manner ~~[and with~~  
15-50 ~~like effect]~~ as if the amount had been deducted from the  
15-51 compensation of and made by the employee pursuant to Sections  
15-52 845.402 and this section [845.403(a) through (h)].

15-53 SECTION 32. (a) The Texas County and District Retirement  
15-54 System shall reinstate, as of the termination date, the account of a  
15-55 person whose membership was terminated after December 31, 2004,  
15-56 under previous law because of an absence from service for five  
15-57 consecutive years, if the amount in the account has not been  
15-58 withdrawn. After reinstatement, the retirement system shall adjust  
15-59 the member's account to its opening balance as of January 1, 2005,  
15-60 and credit it after that date with interest as allowed under  
15-61 Subtitle F, Title 8, Government Code. For a membership that was  
15-62 terminated after December 31, 1999, and before January 1, 2006, and  
15-63 that is not reinstated, interest is computed on the balance in the  
15-64 person's individual account on January 1 of the year of termination  
15-65 through the month preceding the month in which the membership was  
15-66 terminated.

15-67 (b) Until the first pay period beginning after December 31,  
15-68 2006, a subdivision participating in the Texas County and District  
15-69 Retirement System by order or resolution may exclude from

16-1 membership in the retirement system as a class persons who fill a  
16-2 permanent position or office in the subdivision that normally  
16-3 requires services from the person for less than 900 hours a year and  
16-4 persons described by Section 842.105, Government Code, who are  
16-5 employed in a position that normally requires services for less  
16-6 than 900 hours a year by a community supervision and corrections  
16-7 department. The optional exclusion from membership authorized by  
16-8 this subsection ceases on the earlier of the date specified by a  
16-9 subdivision in an order or resolution or the first pay period  
16-10 beginning after December 31, 2006.

16-11 (c) A subdivision that elects to include persons as members  
16-12 of the Texas County and District Retirement System under former  
16-13 Section 842.201, Government Code, may, before April 1, 2006, elect  
16-14 to discontinue active participation of those persons in the  
16-15 retirement system by notifying the system and those persons in a  
16-16 manner the system prescribes.

16-17 SECTION 33. The following provisions of the Government Code  
16-18 are repealed:

- 16-19 (1) Section 842.003;
- 16-20 (2) Section 842.008;
- 16-21 (3) Section 842.009;
- 16-22 (4) Section 842.010;
- 16-23 (5) Section 842.102;
- 16-24 (6) Section 842.103;
- 16-25 (7) Section 842.111;
- 16-26 (8) Subchapter C, Chapter 842;
- 16-27 (9) Section 843.203;
- 16-28 (10) Section 843.204;
- 16-29 (11) Subchapter D, Chapter 843;
- 16-30 (12) Section 843.402;
- 16-31 (13) Section 843.602;
- 16-32 (14) Sections 845.309(d) and (e);
- 16-33 (15) Sections 845.310(b) and (f); and
- 16-34 (16) Section 845.403(c).

16-35 SECTION 34. This Act takes effect January 1, 2006, except  
16-36 that the change in law made by this Act to Section 844.704(a),  
16-37 Government Code, takes effect December 31, 2006.

16-38 \* \* \* \* \*