

By: Williams

S.B. No. 2263

A BILL TO BE ENTITLED

AN ACT

relating to participation and credit in, contributions to, benefits from, and administration of the Texas County and District Retirement System.

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

SECTION 1. Section 841.001, Government Code, is amended by amending Subdivisions (1), (6), and (17) and adding Subdivision (1-a) to read as follows:

(1) "Actuarial equivalent" means a benefit that, at the time it is begun, has the same present value as the benefit it replaces, based on seven percent annual interest and either:

(A) the mortality table published by the Conference of Actuaries in Public Practice and known as the UP-1984 table with an age setback of five years for retired or disabled annuitants and an age setback of 10 years for beneficiaries, with a 30-percent reserve refund assumption for the standard benefit; or

(B) a mortality basis adopted under Section 845.110(c).

(1-a) "Accrued benefit" means the sum of a member's accumulated contributions and service credit calculated as of a specified date.

(6) "Compensation" means the sum of payments that are made to an employee for performance of personal services as certified by a participating subdivision, including nonmonetary compensation, the value of which is determined by the governing body of the subdivision, on which contributions by an employee to

1 the retirement system are based [~~that do not exceed the amount~~  
 2 ~~established by board rule~~], which may not exceed either the limit  
 3 provided by Section 401(a)(17) of the Internal Revenue Code of 1986  
 4 [~~(26 U.S.C. Section 417)~~], as indexed in the manner provided by that  
 5 section, or a lesser amount established by rule of the board of  
 6 trustees. The term includes amounts by which payment for earnings  
 7 is reduced because of employer pick-up of employee contributions to  
 8 the retirement system under Section 845.403, deferral of  
 9 compensation under benefit plans or tax-sheltered annuity programs  
 10 adopted by the subdivision under Section 401(k), 403(b), or 457 of  
 11 the Internal Revenue Code of 1986, the costs of benefits furnished  
 12 under qualified cafeteria plans adopted by the subdivision under  
 13 Section 125 of the Internal Revenue Code of 1986, and deductions for  
 14 Federal Insurance Contribution Act taxes, federal income taxes, or  
 15 other obligations of the employee [~~and that are made to an employee~~  
 16 ~~of a participating subdivision by the subdivision for service,~~  
 17 ~~including nonmonetary compensation, the value of which is~~  
 18 ~~determined by the governing body of the subdivision~~]. The term does  
 19 not include workers' compensation benefits received by a member  
 20 under Section 504.011, Labor Code.

21 (17) "Subdivision" means a political subdivision of  
 22 the state that is not eligible to participate in any other statewide  
 23 retirement system or that is not currently participating in a  
 24 retirement system established by the legislature. The term  
 25 includes the Texas Association of Counties, the retirement system  
 26 [~~Texas County and District Retirement System~~], and a city-county  
 27 hospital jointly managed under Subchapter B, Chapter 265, Health

1 and Safety Code. The term does not include a branch, division,  
2 department, employee classification group, or other separately  
3 identified component of a political subdivision.

4 SECTION 2. Section 841.006, Government Code, is amended to  
5 read as follows:

6 Sec. 841.006. EXEMPTION FROM EXECUTION. (a) All  
7 retirement annuity payments, other benefit payments, and a member's  
8 accumulated contributions are unassignable and are exempt from  
9 execution, garnishment, attachment, and state and local taxation.

10 (b) Notwithstanding Subsection (a), the board of trustees  
11 by rule may authorize the retirement system, in accordance with a  
12 retiree's voluntary election, to:

13 (1) deduct qualified health insurance premiums from  
14 the retirement annuity otherwise distributable to a retiree who is  
15 an eligible public safety officer or a retiree who meets any  
16 expanded eligibility provision for a similar tax exemption under  
17 subsequent federal legislation; and

18 (2) pay the deducted amount directly to the health  
19 plan provider, subject to the requirements of Section 402(l),  
20 Internal Revenue Code of 1986, or other applicable federal law, and  
21 the rules adopted by the board.

22 SECTION 3. Subchapter A, Chapter 841, Government Code, is  
23 amended by adding Section 841.0091 to read as follows:

24 Sec. 841.0091. DIVISION OF BENEFITS ON DIVORCE OF MEMBER.

25 (a) On receipt of a qualified domestic relations order incident to  
26 a divorce that awards a portion of a member's accrued benefit to a  
27 former spouse of the member and that strictly follows the terms and

1 format of the model qualified domestic relations order, as well as  
2 any other requirements, adopted by the board of trustees for this  
3 purpose, the retirement system shall divide the accrued benefit  
4 into two separate benefits that, in combination at the time of  
5 division, are actuarially equivalent to the undivided accrued  
6 benefit.

7 (b) Following a division described by Subsection (a), the  
8 portion of the accrued benefit awarded the alternate payee is  
9 considered the alternate payee's sole and separate property in  
10 which the member has no interest. The board of trustees by rule  
11 shall define and specify the rights and responsibilities of the  
12 alternate payee and the terms and features of the benefit awarded  
13 the alternate payee under the order, but in no event may the  
14 alternate payee vest in the accrued benefit before the member vests  
15 or attain greater rights than are attained by the member or the  
16 member's beneficiary.

17 (c) Notwithstanding Section 804.101, the board of trustees  
18 by rule may prescribe terms on which the interest awarded the  
19 alternate payee under a qualified domestic relations order  
20 described by this section may be transferred at the alternate  
21 payee's death.

22 (d) The board of trustees has sole authority and discretion  
23 to:

24 (1) specify the terms and format that are required for  
25 a qualified domestic relations order to be acceptable for purposes  
26 of Subsection (a);

27 (2) require strict compliance for qualification;

1           (3) specify the dates on which a distribution to an  
2 alternate payee may or must begin; and

3           (4) establish rules for the administration of this  
4 section.

5           (e) This section applies to all domestic relations orders  
6 described by this section that the retirement system first  
7 determines to be qualified on or after September 1, 2009, and to  
8 those domestic relations orders determined to be qualified before  
9 September 1, 2009, that the system further determines can be  
10 construed to allow a division described by this section without  
11 harm or injury to the member's interest awarded under the original  
12 qualified order. The actuarial equivalent value of the accrued  
13 benefit payable to an alternate payee may not be greater than the  
14 actuarial equivalent value of the accrued benefit as if there had  
15 been no division and the accrued benefit had been payable to the  
16 member in the form of an annuity.

17           SECTION 4. Section 842.108, Government Code, is amended to  
18 read as follows:

19           Sec. 842.108. WITHDRAWAL OF ACCUMULATED CONTRIBUTIONS.  
20 (a) [(b)] A member who has separated from employment with a  
21 participating subdivision may submit an application to withdraw the  
22 member's accumulated contributions attributable to service with  
23 that subdivision. A withdrawal cancels the person's [~~credited~~  
24 ~~service and~~] service credit attributable to service with that  
25 subdivision on the date the retirement system makes payment of any  
26 portion of the member's accumulated contributions. [~~Credited~~  
27 ~~service that has been canceled may not be used to determine~~

1 ~~eligibility for a later retirement unless it is reestablished under~~  
2 ~~Section 803.203, 843.003, or 843.0031.]~~

3 (b) [~~(c)~~] Except for a [~~terminated~~] membership terminated  
4 under prior law or in accordance with Section 842.109(b) [~~described~~  
5 ~~by Subsection (a)~~], interest is computed on the balance in the  
6 member's individual account in the employees saving fund on January  
7 1 of the year of withdrawal through the month before the month in  
8 which the withdrawal occurs [~~for a person described by Subsection~~  
9 ~~(b)~~].

10 (c) [~~(d)~~] If a person eligible to receive a withdrawal or  
11 another non-periodic distribution [~~under this section or Section~~  
12 ~~844.401~~] elects to have all or a portion of the distribution  
13 [~~accumulated contributions~~] paid directly to an eligible  
14 retirement plan and specifies the plan to which the distribution is  
15 [~~contributions are~~] to be paid on forms approved by the board of  
16 trustees, the retirement system shall make the payment in the form  
17 of a direct trustee-to-trustee transfer but is under no obligation  
18 to determine whether the other plan in fact is an eligible  
19 retirement plan for that purpose.

20 (d) Notwithstanding Subsection (c), the board of trustees  
21 shall adopt rules to administer this section as necessary to  
22 maintain the retirement system as a qualified plan under Section  
23 401(a) of the Internal Revenue Code of 1986. The rules may include  
24 the adoption of definitions and limitations relating to  
25 distributions, eligible recipients, and eligible retirement plans.

26 SECTION 5. The heading to Section 842.110, Government Code,  
27 is amended to read as follows:

1           Sec. 842.110. RESUMPTION OF SERVICE AFTER WITHDRAWAL OR  
2 RETIREMENT [~~BY RETIREE~~].

3           SECTION 6. Sections 842.110(a) and (b), Government Code,  
4 are amended to read as follows:

5           (a) Except as provided by Subsection (b), a person who has  
6 withdrawn the person's accumulated contributions or who has retired  
7 from a participating subdivision with a service retirement annuity  
8 based on a bona fide termination of employment and with a break in  
9 service of not less than one calendar month resumes membership in  
10 the retirement system without repayment of the amount distributed  
11 or cancellation [~~suspension~~] of the person's annuity if the person  
12 becomes an employee of any participating subdivision.

13           (b) A person who resumes employment with the same  
14 subdivision from which the person was previously employed and does  
15 not meet the requirements of Subsection (a) is considered not to  
16 have been eligible for a withdrawal and not to have retired with  
17 respect to that subdivision. The person's membership will be  
18 restored, the person's service retirement annuity will be canceled  
19 [~~discontinued, the person's membership will be restored~~], and the  
20 person must return any amounts distributed and payments  
21 received. Appropriate adjustments will be made for any amounts not  
22 returned.

23           SECTION 7. Section 843.001, Government Code, is amended to  
24 read as follows:

25           Sec. 843.001. TYPES OF CREDITABLE SERVICE. The types of  
26 service creditable as credited service in the retirement system are  
27 prior service, current service, and optional service. A member may

1 not be credited in this system with more than one month of credited  
2 service for a specific calendar month, regardless of the number of  
3 employers of the member, the positions held, or the types of  
4 service.

5 SECTION 8. The heading to Section 843.0031, Government  
6 Code, is amended to read as follows:

7 Sec. 843.0031. [~~REESTABLISHMENT OF CREDITED SERVICE,~~]  
8 OPTION TO PAY LUMP-SUM AMOUNT.

9 SECTION 9. Section 843.0031(b), Government Code, is amended  
10 to read as follows:

11 (b) A member who has withdrawn accumulated contributions  
12 from the retirement system and who subsequently resumes employment  
13 with a subdivision may at any time before retirement pay to the  
14 system a lump sum in any amount that does not exceed the actuarial  
15 present value of the additional benefits that would have been  
16 attributable to the withdrawn contributions. Any amount paid  
17 under this subsection and interest accrued on the amount may not be  
18 considered in the computation of service credit [~~credits~~].

19 SECTION 10. Section 843.004, Government Code, is amended to  
20 read as follows:

21 Sec. 843.004. COMPOSITION OF SERVICE CREDIT. Service  
22 credit consists of allocated prior service credit, current service  
23 credit, and multiple matching credit as authorized by a  
24 participating subdivision [~~and accumulated interest under this~~  
25 ~~sub~~title].

26 SECTION 11. Section 843.201, Government Code, is amended to  
27 read as follows:



1           Sec. 843.201. SERVICE CREDIT FOR CERTAIN PUBLIC  
2 EMPLOYMENT. [~~(a)~~] In accordance with rules adopted by the board  
3 of trustees, the governing body of a participating subdivision by  
4 order may authorize the establishment of credited service and prior  
5 service credit in the retirement system for service performed in a  
6 public hospital, utility, or other public facility or governmental  
7 function during a time the facility was operated or function was  
8 performed by a unit of government other than the subdivision and  
9 before the date that the public hospital, utility, or other public  
10 facility or governmental function was taken over by the subdivision  
11 [~~+~~

12                   ~~[(1) the effective date of the subdivision's~~  
13 ~~participation in the retirement system, if the facility was~~  
14 ~~acquired or the governmental function was taken over by the~~  
15 ~~subdivision before that date, or~~

16                   ~~[(2) the date of acquisition of the facility or the~~  
17 ~~date the governmental function was taken over, if the facility was~~  
18 ~~acquired or the governmental function was taken over after the~~  
19 ~~effective date of the subdivision's participation in the retirement~~  
20 ~~system].~~

21           ~~[(b) A member eligible to establish credited service and~~  
22 ~~prior service credit under this section after an order under~~  
23 ~~Subsection (a) is one who was employed by a public facility or by an~~  
24 ~~entity performing the governmental function.~~

25                   ~~[(1) on the effective date of subdivision~~  
26 ~~participation, for service under Subsection (a)(1), or~~

27                   ~~[(2) on the date of acquisition of the facility or the~~

1 ~~date the governmental function was taken over, for service under~~  
2 ~~Subsection (a)(2).~~

3 ~~[(c) The allocated prior service credit percentage~~  
4 ~~allowable under this section may be limited by the order of the~~  
5 ~~governing body to zero or to any percentage that is a multiple of~~  
6 ~~five percent.]~~

7 SECTION 12. Section 843.401, Government Code, is amended to  
8 read as follows:

9 Sec. 843.401. CURRENT SERVICE GENERALLY. Current service  
10 is service performed by an employee of a participating subdivision  
11 while a member of the retirement system and credited as provided  
12 under this subtitle and in accordance with rules adopted by the  
13 board of trustees ~~[section]. [The retirement system shall credit a~~  
14 ~~member with one month of current service for each month for which~~  
15 ~~the required contributions are made, reported, and certified by the~~  
16 ~~employing subdivision.]~~

17 SECTION 13. Sections 843.502(a), (b), and (c), Government  
18 Code, are amended to read as follows:

19 (a) In this section:

20 (1) "Qualified ~~["qualified]~~ military service" means  
21 service in the uniformed services, as that term is defined in the  
22 Uniformed Services Employment and Reemployment Rights Act of 1994  
23 (38 U.S.C. Section 4301 et seq.), that meets the requirements of  
24 that Act as it now exists or is amended as to the character of  
25 service performed.

26 (2) "USERRA" means the Uniformed Services Employment  
27 and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et

1 seq.).

2 (b) All members of the retirement system are entitled to be  
3 credited with service for qualified military service that is  
4 subject to USERRA [~~the Uniformed Services Employment and~~  
5 ~~Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.)~~].  
6 Notwithstanding any provision of this subtitle to the contrary,  
7 contributions, benefits, credited service, and service credit for  
8 qualified military service will be provided in accordance with  
9 USERRA and Section 414(u) of the Internal Revenue Code of  
10 1986. The board of trustees may adopt rules for the administration  
11 of this section, including rules that modify the terms of this  
12 subtitle for the purpose of compliance with the provisions of  
13 USERRA [~~that Act~~].

14 (c) An eligible member may establish [~~The governing body of~~  
15 ~~a participating subdivision also may, on the terms provided by~~  
16 ~~Section 844.704, authorize the establishment of~~] credited service  
17 in the retirement system for qualified active duty military service  
18 not creditable under Subsection (b) [~~as provided by this~~  
19 ~~subsection~~]. Qualified military service includes military service  
20 before becoming an employee of the subdivision. A member eligible  
21 to establish credited service under this subsection is one who is  
22 vested, based on credited service only in this system and without  
23 regard to service that may be established under this subsection, in  
24 a service retirement annuity that may begin at the age of 60 [~~has~~  
25 ~~credited service in the retirement system for at least the minimum~~  
26 ~~period required to receive a service retirement annuity at the age~~  
27 ~~of 60 from the subdivision from which credit under this subsection~~

1 ~~is sought~~]. An eligible member may establish not more than five  
2 years of credited service under this subsection by filing an  
3 application with the retirement system.

4 SECTION 14. Section 843.504, Government Code, is amended to  
5 read as follows:

6 Sec. 843.504. NO DOUBLE CREDITING OF SERVICE. Except as  
7 provided by Chapter 803, only one month of credited service may  
8 ~~[not]~~ be established in the retirement system ~~[under this~~  
9 ~~subchapter]~~ for any calendar month for all ~~[of]~~ service that is  
10 creditable ~~[credited]~~ under ~~[another section of]~~ this subtitle ~~[or~~  
11 ~~by another retirement system or program established or governed by~~  
12 ~~state law]~~.

13 SECTION 15. Subchapter F, Chapter 843, Government Code, is  
14 amended by adding Section 843.505 to read as follows:

15 Sec. 843.505. CREDITED SERVICE PREVIOUSLY ELIGIBLE FOR  
16 RECOGNITION UNDER PROPORTIONATE RETIREMENT PROGRAM. The board of  
17 trustees by rule may authorize the retirement system, on  
18 application by a member and for the sole purpose of determining  
19 eligibility for retirement from this system, to recognize service  
20 performed under another system participating under Chapter 803 that  
21 would have been recognized by this system under that chapter if the  
22 service had not been canceled by a withdrawal of contributions.

23 SECTION 16. Section 844.003, Government Code, is amended by  
24 amending Subsections (c) and (e) and adding Subsection (f) to read  
25 as follows:

26 (c) The effective date of a member's disability retirement  
27 is the date the member designates at the time the member applies for

1 retirement under Section 844.301, but the date must be the last day  
2 of a calendar month and may not precede the later of the date the  
3 member became disabled or the date the member terminated  
4 ~~[terminates]~~ employment with all participating subdivisions.

5 (e) Notwithstanding Subsections (a), (b), (b-1), ~~[and]~~ (c),  
6 and (f), the effective retirement date of a member may not precede  
7 the first anniversary of the effective date of participation of the  
8 subdivision.

9 (f) The board of trustees by rule may authorize a retiring  
10 member to designate an effective service or disability retirement  
11 date that is not more than six months before the date the retirement  
12 system receives the retirement application. A rule adopted under  
13 this section may not suspend another requirement provided by this  
14 section for retirement.

15 SECTION 17. Sections 844.006(d) and (f), Government Code,  
16 are amended to read as follows:

17 (d) The ~~[If a qualified domestic relations order, as that~~  
18 ~~term is defined by Section 804.001, so provides, the]~~ benefit  
19 payable to a retiree who is receiving payments of a standard or  
20 optional retirement annuity ~~[computed on the joint lives of the~~  
21 ~~retiree and the person designated as beneficiary by the retiree]~~  
22 may be divided by the retirement system into two annuities in  
23 accordance with the terms of a model qualified domestic relations  
24 order adopted by the board of trustees by rule ~~[if:~~

25 ~~[(1) the person who was designated as beneficiary by~~  
26 ~~the retiree is the same person as the alternate payee,~~

27 ~~[(2) the order specifies that one of the two annuities~~

1 ~~is payable over the remaining life of the retiree, with no payments~~  
2 ~~to be made under that annuity after the death of the retiree; and~~  
3 ~~(3) the order specifies that the annuity payable to~~  
4 ~~the alternate payee is payable over the remaining life of that~~  
5 ~~person, with no payments to be made under that annuity after the~~  
6 ~~death of the alternate payee named in the order].~~

7       (f) The board of trustees has sole authority and discretion  
8 to specify the terms and format that are required for a domestic  
9 relations order to be acceptable for purposes of this section, to  
10 require strict compliance for qualification, and to define the  
11 terms and features of the benefit awarded an alternate payee under  
12 the order. The board ~~[retirement system]~~ by rule may establish  
13 requirements for forms, documentation, and procedures necessary or  
14 desirable for the administration of this section.

15       SECTION 18. Section 844.008, Government Code, is amended to  
16 read as follows:

17       Sec. 844.008. LIMITATION ON PAYMENT OF BENEFITS.

18 (a) Notwithstanding any other provision of this subtitle, the  
19 benefit payable to a retiree of the retirement system may not exceed  
20 the maximum benefit permitted under Section 415(b) of the Internal  
21 Revenue Code of 1986 [~~(26 U.S.C. Section 415(b))~~] as adjusted in  
22 accordance with Section 415(d) of that code. Any adjustments are  
23 applicable to the postretirement benefits of retirees as well as to  
24 the benefits of retiring members. For the purpose of determining  
25 whether the benefit of a retiring member or retiree exceeds the  
26 limitations provided in this section, all defined benefit plans of  
27 the employer and of entities required to be aggregated with the

1 employer for purposes of Section 415 of the Internal Revenue Code of  
2 1986 are to be treated as one defined benefit plan [~~and all defined~~  
3 ~~contribution plans of the employer and of entities required to be~~  
4 ~~aggregated with the employer]~~ for purposes of Section 415 of that  
5 code [~~are to be treated as one defined contribution plan]. The~~  
6 limitation year for determining maximum benefits is the calendar  
7 year.

8 (b) An employer may not provide employee retirement [~~or~~  
9 ~~deferred]~~ benefits under a defined benefit plan other than the  
10 retirement system to the extent that the provision of the benefits,  
11 when considered together with the benefits provided under the  
12 retirement system, would result in the failure of the retirement  
13 system to meet any of the limitation requirements of Section 415 of  
14 the Internal Revenue Code of 1986 [~~(26 U.S.C. Section 415)]~~, and the  
15 benefits of the other plan will automatically be reduced,  
16 eliminated, or adjusted to the extent necessary to prevent the  
17 failure.

18 SECTION 19. Section 844.101, Government Code, is amended to  
19 read as follows:

20 Sec. 844.101. APPLICATION FOR SERVICE RETIREMENT  
21 ANNUITY. To receive a retirement annuity for service, an eligible  
22 member must apply by filing a valid application with the retirement  
23 system [~~on or before the member's effective retirement date~~  
24 ~~designated on the application]~~.

25 SECTION 20. Section 844.301(a), Government Code, is amended  
26 to read as follows:

27 (a) A member may apply for disability retirement by filing a

1 valid application for retirement with the retirement system [~~on or~~  
2 ~~before the member's effective retirement date designated on the~~  
3 ~~application~~].

4 SECTION 21. Section 844.404, Government Code, is amended to  
5 read as follows:

6 Sec. 844.404. PERSON CAUSING DEATH OF MEMBER OR ANNUITANT.

7 (a) A benefit, including any optional group term life benefit,  
8 payable on the death of a member or annuitant may not be paid to a  
9 person convicted of causing that death but instead is payable to a  
10 person who would be entitled under this subtitle to the benefit had  
11 the convicted person predeceased the decedent. If no person would  
12 be entitled to the benefit, the benefit is payable to the decedent's  
13 estate.

14 (b) The retirement system is not required to change the  
15 recipient of benefits under this section [~~pay a benefit under~~  
16 ~~Subsection (a)~~] unless it receives actual notice of the conviction  
17 of a beneficiary [~~the person who would have been entitled to the~~  
18 ~~benefits~~]. However, the retirement system may delay payment of a  
19 benefit payable on the death of a member or annuitant pending the  
20 results of a criminal investigation and of legal proceedings  
21 relating to the cause of death.

22 (c) The retirement system is not liable for any benefit paid  
23 to a convicted person before the date the system receives actual  
24 notice of the conviction, and any payment made before that date is a  
25 complete discharge of the system's obligation with regard to that  
26 benefit payment. The convicted person holds all payments received  
27 in constructive trust for the rightful recipient.



1        (d) If an annuity is in pay status, the [~~(c) The~~]  
2 retirement system shall pay in a lump sum the actuarial equivalent  
3 of [~~convert~~] the remainder of any annuity or payments that would  
4 otherwise have been payable to [~~throughout the life of~~] the  
5 convicted person to the person entitled to the benefit under  
6 Subsection (a) or to the decedent's estate [~~an actuarially~~  
7 ~~equivalent annuity payable to the decedent's estate in 60 monthly~~  
8 ~~annuity payments~~]. The time of the actuarial equivalence is the  
9 earlier of the time the retirement system receives the notice of the  
10 conviction under Subsection (b) or the time the retirement system  
11 begins the delay in payment of a benefit under Subsection (b).

12        (e) [~~(d)~~] For the purposes of this section, a person has  
13 been convicted of causing the death of a member or annuitant if the  
14 person:

15            (1) has pleaded guilty or nolo contendere to or has  
16 been found guilty by a court of competent jurisdiction of an offense  
17 at the trial of which it is established that the person's  
18 intentional, knowing, or reckless act or omission resulted in the  
19 death of a person who was a member or annuitant, regardless of  
20 whether sentence is imposed or probated; and

21            (2) has no appeal of the conviction pending and the  
22 time provided for appeal has expired.

23        SECTION 22. Subchapter G, Chapter 844, Government Code, is  
24 amended by adding Section 844.601 to read as follows:

25        Sec. 844.601. PLAN FUNDING BY NON-ADOPTING COUNTY. (a)  
26 This section applies only to a county that began participation in  
27 the retirement system before January 1, 1992, and has not adopted

1 the provisions of Subchapter H.

2 (b) Except as provided by Subsections (c) and (d), the  
3 county shall contribute to its account in the subdivision  
4 accumulation fund at the same rate of current service compensation  
5 as the employee contribution rate for the county.

6 (c) If in any year the retirement system's actuary  
7 determines that the contributions of the county to the subdivision  
8 accumulation fund under Subsection (b) will not finance the  
9 county's obligations to the fund within the closed or open  
10 amortization period recommended by the actuary and adopted by the  
11 board of trustees for all subdivisions, the governing body of the  
12 county shall adopt an order to reduce the amortization period to the  
13 maximum period established by the board. The actuary shall  
14 determine appropriate remedies for review and adoption by the  
15 county. An order adopted under this subsection must first be  
16 approved by the board of trustees and must require:

17 (1) a reduction in the employee contribution rate to a  
18 rate not less than four percent of current service compensation;

19 (2) additional employer contributions under a  
20 supplemental contribution rate as provided by Subsection (e);

21 (3) a reduction in the percentage for determining  
22 multiple matching credits in five percent increments for  
23 contributions made after the effective date of the reduction; or

24 (4) any combination of these actions.

25 (d) An order adopted under Subsection (c) takes effect on  
26 the first day of the calendar year that begins after the date the  
27 retirement system's actuary makes a determination described by

1 Subsection (c).

2 (e) A supplemental contribution rate under this section is  
3 the rate of contribution by the county to its account in the  
4 subdivision accumulation fund, in addition to the contributions  
5 required under Subsection (b), that the retirement system's actuary  
6 determines and certifies is required to amortize the obligations of  
7 the county to the subdivision accumulation fund within the  
8 established amortization period.

9 (f) A county that has not adopted the provisions of  
10 Subchapter H may not adopt additional options and may not increase  
11 service credits or benefits otherwise allowable under this subtitle  
12 except for an increase in the rate of employee contributions or an  
13 increase in the percentage of multiple matching credits to a rate or  
14 percentage that does not exceed the rate or percentage in effect on  
15 January 1, 2010.

16 SECTION 23. Section 844.701, Government Code, is amended to  
17 read as follows:

18 Sec. 844.701. APPLICABILITY. Except for a county  
19 described by Section 844.601, this [(a) This] subchapter applies  
20 to each subdivision that participates [begins participation] in the  
21 retirement system [after December 31, 1991].

22 ~~[(b) The governing body of any subdivision participating~~  
23 ~~before January 1, 1992, by order or resolution may adopt the plan~~  
24 ~~provisions of this subchapter to be effective on January 1 of the~~  
25 ~~year following the year in which the order or resolution is received~~  
26 ~~by the system.~~

27 ~~[(c) Other provisions of this subtitle apply to the plan~~

1 ~~provisions of this subchapter except as modified by this~~  
2 ~~subchapter.]~~

3 SECTION 24. Section 844.704, Government Code, is amended to  
4 read as follows:

5 Sec. 844.704. BENEFITS. (a) The ~~[On the adoption of the~~  
6 ~~plan provisions of this subchapter, the]~~ governing body of a a ~~[the]~~  
7 subdivision shall select a percentage for determining multiple  
8 matching credits ~~[under Section 843.402. The governing body shall~~  
9 ~~select a percentage]~~ of zero or any percentage that is a multiple of  
10 five percent and that does not exceed 150 percent ~~[, or it may select~~  
11 ~~the multiple matching percentage that the subdivision has in effect~~  
12 ~~on the date of its adoption of the plan provisions of this~~  
13 ~~subchapter].~~ The governing body may later increase the percentage  
14 used in determining multiple matching credits under Section 843.402  
15 to any percentage that is a multiple of five percent and that does  
16 not exceed 150 percent, to take effect on the next January 1 after  
17 the date the increase is adopted ~~[, except that the sum of the~~  
18 ~~percentage for current service credits under Section 843.402 and~~  
19 ~~the percentage for multiple matching credits may not exceed 250~~  
20 ~~percent].~~ In its order or resolution, the governing body may  
21 provide that the increased percentage will be used in determining  
22 multiple matching credits ~~[under Section 843.402]~~ only for employee  
23 contributions made after the effective date of the increase or that  
24 the increased percentage will be used both prospectively and  
25 retroactively in determining the multiple matching credits for all  
26 employee contributions not otherwise matched at a higher  
27 percentage. The governing body may thereafter reduce the

1 percentage used in determining multiple matching credits [~~under~~  
2 ~~Section 843.402~~] for contributions made after the effective date of  
3 the reduction to zero or any percentage that is a multiple of five  
4 percent, to take effect on the next January 1 after the date of the  
5 reduction.

6 (b) The [~~On the adoption of the plan provisions of this~~  
7 ~~subchapter, the~~] governing body shall select a percentage for  
8 determining allocated prior service credits of zero or any  
9 percentage [~~under Section 843.105. The governing body shall~~  
10 ~~select a percentage~~] that is a multiple of five percent. [~~For a~~  
11 ~~subdivision that began participation before January 1, 1992, the~~  
12 ~~percentage cannot be less than the percentage in effect immediately~~  
13 ~~before the adoption of the plan.~~] The governing body may increase  
14 the percentage used in determining allocated prior service credits  
15 [~~under Section 843.105~~], to take effect on the next January 1 after  
16 the date of the increase. The percentage may not exceed one-half  
17 of the percentage that results from adding 200 percent to the lowest  
18 percentage for determining multiple matching credit currently  
19 applicable to any employee contribution with respect to the  
20 subdivision.

21 (c) The subdivision shall provide current service credits  
22 in accordance with Section 843.402.

23 (d) With the approval of the board of trustees, the [~~The~~]  
24 governing body of a subdivision may adopt any benefit increase or  
25 additional benefit, option, right, or feature as authorized under  
26 this subtitle [~~or authorize:~~

27 [~~(1) an increase in retirement annuities under Section~~

1 ~~844.209,~~

2 ~~[(2) an increase in retirement annuities under Section~~  
3 ~~844.208,~~

4 ~~[(3) the reestablishment of service credit previously~~  
5 ~~forfeited under Section 843.003,~~

6 ~~[(4) the establishment of credited service for~~  
7 ~~military service under Section 843.502(c),~~

8 ~~[(5) an optional service retirement eligibility~~  
9 ~~provision described by Section 844.1021, or~~

10 ~~[(6) the partial lump-sum distribution on service~~  
11 ~~retirement under Section 844.009].~~

12 (e) The governing body may not adopt an increase or addition  
13 to the subdivision's plan [~~the benefits of this section~~] if the  
14 adoption would result in the combined rates of the subdivision's  
15 normal contributions and prior service contributions for the first  
16 calendar year following the adoption exceeding the maximum rate  
17 prescribed by Section 844.703(c), unless a waiver under that  
18 section is in effect.

19 (f) Other than an order or resolution of initial  
20 participation in the retirement system and except as otherwise  
21 authorized by the board of trustees, an [~~An~~] order or resolution  
22 under this section must be filed with the retirement system not  
23 later than December 15 of the year preceding the year in which it  
24 will take effect and may not take effect until the order or  
25 resolution is approved by the board of trustees as meeting the  
26 requirements of this section. An [~~After approval by the board, an~~]  
27 order or resolution adopted after participation begins may take

1 effect only on January 1 of a year [~~7, except that an order or~~  
2 ~~resolution for a subdivision that begins participation after~~  
3 ~~January 1, 1992, may take effect on the date the subdivision begins~~  
4 ~~participation~~].

5 SECTION 25. Section 845.107, Government Code, is amended to  
6 read as follows:

7 Sec. 845.107. AUDITS AND REVIEWS [~~AUDIT~~]. (a) In this  
8 section:

9 (1) "Audit" means an audit authorized or required by a  
10 statute of this state or of the United States or initiated or  
11 commissioned by the board of trustees. The term includes a  
12 financial audit, compliance audit, economy and efficiency audit,  
13 effectiveness audit, performance audit, risk audit, and  
14 investigation.

15 (2) "Audit working paper" includes all information,  
16 documentary or otherwise, prepared or maintained in conducting an  
17 audit or preparing an audit report, including:

18 (A) internal or external communications relating  
19 to the audit that are made or received in the course of the audit;  
20 and

21 (B) drafts of an audit report or portions of  
22 those drafts.

23 (b) Annually, or more often, the board of trustees shall  
24 have the accounts of the retirement system audited by a certified  
25 public accountant.

26 (c) In addition to the financial audit required by  
27 Subsection (b), the board of trustees may initiate or commission an

1 audit or investigation of activities, functions, or operations of  
2 the retirement system as the board determines appropriate.

3 (d) Audit working papers prepared, maintained, or assembled  
4 by the retirement system or an agent of the system are not a record  
5 of the board of trustees for purposes of Section 845.112, and are  
6 confidential and excepted from the disclosure requirements of  
7 Chapter 552.

8 (e) Unless made confidential under other law, an audit  
9 report, when accepted by the board of trustees in its final form, is  
10 a record of the board and public information.

11 (f) A review or investigation initiated by the director on  
12 the director's own motion concerning internal processes and  
13 procedures of the retirement system for internal management  
14 purposes only is confidential and excepted from the disclosure  
15 requirements of Chapter 552.

16 SECTION 26. Section 845.110, Government Code, is amended by  
17 adding Subsection (c) to read as follows:

18 (c) On recommendation of the retirement system's actuary,  
19 the board of trustees by rule may adopt a mortality basis to be used  
20 in determining actuarial equivalents.

21 SECTION 27. Section 845.114(a), Government Code, is amended  
22 to read as follows:

23 (a) In this chapter [~~section~~], "participant" means a  
24 member, former member, retiree, annuitant, beneficiary, or  
25 alternate payee of the retirement system.

26 SECTION 28. Section 845.1151, Government Code, is amended  
27 to read as follows:



1           Sec. 845.1151. ELECTRONIC INFORMATION.   ~~[(a) In this~~  
2 ~~section, "participant" has the meaning assigned by Section~~  
3 ~~845.114(a).~~

4           ~~[(b)]~~ The retirement system may provide confidential  
5 information electronically to a participant and to a subdivision  
6 and receive information electronically from those persons,  
7 including by use of an electronic signature or certification in a  
8 form acceptable to the retirement system. An unintentional  
9 disclosure to, or unauthorized access by, a third party related to  
10 the transmission or receipt of information under this section is  
11 not a violation by the retirement system of any law, including a  
12 rule relating to the protection of confidential information.

13           SECTION 29. Section 845.305(b), Government Code, is amended  
14 to read as follows:

15           (b) All assets of the pension trust of the retirement system  
16 shall be credited according to the purpose for which they are held  
17 to one of the following funds:

- 18                   (1) employees saving fund;
- 19                   (2) subdivision accumulation fund;
- 20                   (3) current service annuity reserve fund;
- 21                   (4) income [~~interest~~] fund;
- 22                   (5) endowment fund; or
- 23                   (6) expense fund.

24           SECTION 30. The heading to Section 845.309, Government  
25 Code, is amended to read as follows:

26           Sec. 845.309. INCOME [~~INTEREST~~] FUND.

27           SECTION 31. Section 845.309(a), Government Code, is amended

1 to read as follows:

2 (a) The income [~~interest~~] fund shall account for the  
3 determination and allocation of net investment income or loss.

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

6 (a) As of December 31 of each year, the board of trustees  
7 shall make the following allocations that in the aggregate equal  
8 the net investment income or loss for the year:

9 (1) to the current service annuity reserve fund,  
10 interest as allowed under this subtitle on the mean amount in the  
11 current service annuity reserve fund during that year;

12 (2) to the optional group term life [~~supplemental~~  
13 ~~death benefits~~] fund, interest as allowed under this subtitle on  
14 the mean amount in the optional group term life [~~supplemental death~~  
15 ~~benefits~~] fund during that year;

16 (3) to the general reserves account of the endowment  
17 fund, a positive or negative amount determined by the board;

18 (4) to the employees saving fund, current interest as  
19 allowed under this subtitle on the member account balances on  
20 January 1 of that year of all persons who are members on December 31  
21 of that year;

22 (5) to the accounts of subdivisions, other than  
23 subdivisions otherwise described by this section, an amount derived  
24 by applying a positive or negative rate, as determined by the board,  
25 to the January 1 balances of that year; and

26 (6) to the accounts of subdivisions to which Section  
27 842.052 or 842.053 applies, positive or negative amounts as

1 determined by the board.

2 SECTION 33. Sections 845.402(b) and (c), Government Code,  
3 are amended to read as follows:

4 (b) After timely notice to the board of trustees, the ~~[The]~~  
5 governing body of a participating subdivision may increase the rate  
6 of its member contributions effective with ~~[on]~~ the first pay  
7 period beginning in the following ~~[day of any]~~ calendar year.

8 (c) After timely notice to the board of trustees, the ~~[The]~~  
9 governing body of a participating subdivision may reduce the rate  
10 of its member contributions effective with ~~[on]~~ the first pay  
11 period beginning in the following ~~[day of any]~~ calendar year ~~[if, at~~  
12 ~~least 90 days before the date of the reduction, the subdivision has~~  
13 ~~given written notice of the reduction to the board of trustees and~~  
14 ~~if the actuary determines that the reduction would not impair the~~  
15 ~~ability of the subdivision to fund all obligations against its~~  
16 ~~account in the subdivision accumulation fund before the 20th~~  
17 ~~anniversary of the subdivision's most recent actuarial valuation~~  
18 ~~date].~~

19 SECTION 34. Subchapter E, Chapter 845, Government Code, is  
20 amended by adding Section 845.405 to read as follows:

21 Sec. 845.405. ALTERNATIVE PERIODS FOR ADMINISTRATIVE  
22 COMPLIANCE. (a) Notwithstanding any other provision of this  
23 subtitle, the board of trustees may authorize a subdivision to  
24 remit to the retirement system contributions, deposits, and other  
25 payments on the basis of a period that is less than a month,  
26 including weekly, biweekly, or another semimonthly period. A  
27 subdivision authorized to remit amounts more frequently than

1 monthly shall make reports and filings and perform other actions  
2 accordingly, and the retirement system shall credit payments  
3 accordingly.

4 (b) The board of trustees may make an authorization under  
5 Subsection (a) by rule applicable to all subdivisions similarly  
6 situated or by order applicable to designated subdivisions. A rule  
7 adopted under this subsection is amendable or revocable in the  
8 manner provided for adoption, amendment, or repeal of rules  
9 generally. An order adopted under this subsection is revocable  
10 wholly or partly by subsequent board order.

11 (c) If the board of trustees adopts a rule or order under  
12 Subsection (b), the board shall also adopt rules, applicable to a  
13 subdivision electing or designated to take actions described by  
14 this section more frequently than monthly, to alter the periods  
15 required for submission of payments and reports, including the  
16 period when a late penalty begins to accrue or is deducted from a  
17 subdivision's account in the subdivision accumulation fund, in a  
18 manner consistent with the periods provided by this subtitle.

19 (d) A participant may not receive less credited service,  
20 service credit, or benefits due to an authorization under this  
21 section than the participant would have received on a monthly  
22 basis.

23 SECTION 35. Section 845.407(a), Government Code, is amended  
24 to read as follows:

25 (a) Except as provided by Subsections (c), (d), and (e), a  
26 participating subdivision that fails to provide the information  
27 required by Section 845.403 or to pay all contributions required by

1 this subchapter to be made and remitted to the retirement system not  
2 later than the 15th day of the month in which they become due shall  
3 pay a penalty under this section. The penalty for a past-due  
4 monthly remission is equal to interest on the past-due amounts for  
5 each day past due at a nominal interest rate of 12 percent, plus a  
6 \$500 administrative fee. If the penalty is not paid within three  
7 months after the date notice of the penalty has been sent to the  
8 subdivision, the retirement system shall deduct the penalty from  
9 the subdivision's account in the subdivision accumulation fund.  
10 The interest portion of the penalty shall be deposited by the  
11 retirement system in the distributable income account of the income  
12 [~~interest~~] fund. The administrative fee portion of the penalty  
13 shall be deposited by the retirement system in the expense fund.

14 SECTION 36. Sections 845.503(a) and (b), Government Code,  
15 are amended to read as follows:

16 (a) The retirement system may reduce future payments of  
17 benefits based on the account of a member, a retiree, or other  
18 former member to recoup an amount overpaid or otherwise paid in  
19 error to or on the behalf of a participant [~~the member, former~~  
20 ~~member, retiree, annuitant, or beneficiary~~]. If no future  
21 payments are due, the retirement system may recover the overpayment  
22 in any manner that is permitted for the collection of any other  
23 debt.

24 (b) The retirement system may not recover from a participant  
25 [~~member, former member, retiree, annuitant, or beneficiary~~] any  
26 overpayment made more than three years before the date the  
27 overpayment is discovered. This subsection does not apply to an

1 overpayment a reasonable person should know the person is not  
2 entitled to receive.

3 SECTION 37. Section 844.601(b), Government Code, as added  
4 by this Act, applies only to employer contributions to the Texas  
5 County and District Retirement System that become due on or after  
6 January 1, 2010. A county subject to Section 844.601(b),  
7 Government Code, is obligated to make employer contributions to the  
8 Texas County and District Retirement System before January 1, 2010,  
9 at the rate in effect on August 31, 2009.

10 SECTION 38. The following laws are repealed:

- 11 (1) Section 843.0031(a), Government Code;  
12 (2) Sections 843.502(d) and (e), Government Code;  
13 (3) Sections 844.605, 844.606, 844.607, 844.608, and  
14 844.609, Government Code;  
15 (4) Section 845.115(f), Government Code; and  
16 (5) Section 95, Chapter 873 (H.B. 1587), Acts of the  
17 80th Legislature, Regular Session, 2007.

18 SECTION 39. (a) Except as provided by Subsection (b) of  
19 this section, this Act takes effect January 1, 2010.

20 (b) Sections 841.0091 and 844.601, Government Code, as  
21 added by this Act, Section 845.315, Government Code, as amended by  
22 this Act, and Section 37 of this Act take effect September 1, 2009.