

SENATE AMENDMENTS

2nd Printing

By: Kuempel

H.B. No. 407

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

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

23 (17) "Subdivision" means a political subdivision of
24 the state that is not eligible to participate in any other statewide
25 retirement system or that is not currently participating in a
26 retirement system established by the legislature. The term
27 includes the Texas Association of Counties, the retirement system

1 ~~[Texas County and District Retirement System]~~, and a city-county
2 hospital jointly managed under Subchapter B, Chapter 265, Health
3 and Safety Code. The term does not include a branch, division,
4 department, employee classification group, or other separately
5 identified component of a political subdivision.

6 SECTION 2. Section 841.006, Government Code, is amended to
7 read as follows:

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

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

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

20 (2) pay the deducted amount directly to the health
21 plan provider, subject to the requirements of Section 402(1),
22 Internal Revenue Code of 1986, or other applicable federal law, and
23 the rules adopted by the board.

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

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

27 (a) On receipt of a qualified domestic relations order incident to

1 a divorce that awards a portion of a member's accrued benefit to a
2 former spouse of the member and that strictly follows the terms and
3 format of the model qualified domestic relations order, as well as
4 any other requirements, adopted by the board of trustees for this
5 purpose, the retirement system shall divide the accrued benefit
6 into two separate benefits that, in combination at the time of
7 division, are actuarially equivalent to the undivided accrued
8 benefit.

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

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

24 (d) The board of trustees has sole authority and discretion
25 to:

26 (1) specify the terms and format that are required for
27 a qualified domestic relations order to be acceptable for purposes

1 of Subsection (a);

2 (2) require strict compliance for qualification;

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

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

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

19 SECTION 4. Section 842.108, Government Code, is amended to
20 read as follows:

21 Sec. 842.108. WITHDRAWAL OF ACCUMULATED CONTRIBUTIONS.
22 (a) [(b)] A member who has separated from employment with a
23 participating subdivision may submit an application to withdraw the
24 member's accumulated contributions attributable to service with
25 that subdivision. A withdrawal cancels the person's ~~credited~~
26 ~~service and~~ service credit attributable to service with that
27 subdivision on the date the retirement system makes payment of any

1 portion of the member's accumulated contributions[~~— Credited~~
2 ~~service that has been canceled may not be used to determine~~
3 ~~eligibility for a later retirement unless it is reestablished under~~
4 ~~Section 803.203, 843.003, or 843.0031~~].

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

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

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

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

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

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

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

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

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

Sec. 843.001. TYPES OF CREDITABLE SERVICE. The types of

1 service creditable as credited service in the retirement system are
2 prior service, current service, and optional service. A member may
3 not be credited in this system with more than one month of credited
4 service for a specific calendar month, regardless of the number of
5 employers of the member, the positions held, or the types of
6 service.

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

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

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

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

21 SECTION 10. Section 843.004, Government Code, is amended to
22 read as follows:

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

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

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

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

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

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

~~[(1) on the effective date of subdivision~~

1 ~~participation, for service under Subsection (a)(1), or~~

2 ~~[(2) on the date of acquisition of the facility or the~~
3 ~~date the governmental function was taken over, for service under~~
4 ~~Subsection (a)(2).]~~

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

9 SECTION 12. Section 843.401, Government Code, is amended to
10 read as follows:

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

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

21 (a) In this section:

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

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

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

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

1 ~~period required to receive a service retirement annuity at the age~~
2 ~~of 60 from the subdivision from which credit under this subsection~~
3 ~~is sought~~. An eligible member may establish not more than five
4 years of credited service under this subsection by filing an
5 application with the retirement system.

6 SECTION 14. Section 843.504, Government Code, is amended to
7 read as follows:

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

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

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

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

(c) The effective date of a member's disability retirement is the date the member designates at the time the member applies for retirement under Section 844.301, but the date must be the last day of a calendar month and may not precede the later of the date the member became disabled or the date the member terminated ~~[terminates]~~ employment with all participating subdivisions.

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

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

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

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

~~(1) the person who was designated as beneficiary by~~

~~the retiree is the same person as the alternate payee,~~

~~[(2) the order specifies that one of the two annuities is payable over the remaining life of the retiree, with no payments to be made under that annuity after the death of the retiree, and~~

~~[(3) the order specifies that the annuity payable to the alternate payee is payable over the remaining life of that person, with no payments to be made under that annuity after the death of the alternate payee named in the order].~~

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

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

Sec. 844.008. LIMITATION ON PAYMENT OF BENEFITS.

(a) Notwithstanding any other provision of this subtitle, the benefit payable to a retiree of the retirement system may not exceed the maximum benefit permitted under Section 415(b) of the Internal Revenue Code of 1986 ~~[(26 U.S.C. Section 415(b))]~~ as adjusted in accordance with Section 415(d) of that code. Any adjustments are applicable to the postretirement benefits of retirees as well as to the benefits of retiring members. For the purpose of determining whether the benefit of a retiring member or retiree exceeds the

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

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

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

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

27 SECTION 20. Section 844.301(a), Government Code, is amended

1 to read as follows:

2 (a) A member may apply for disability retirement by filing a
3 valid application for retirement with the retirement system [~~on or~~
4 ~~before the member's effective retirement date designated on the~~
5 ~~application~~].

6 SECTION 21. Section 844.404, Government Code, is amended to
7 read as follows:

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

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

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

24 (c) The retirement system is not liable for any benefit paid
25 to a convicted person before the date the system receives actual
26 notice of the conviction, and any payment made before that date is a
27 complete discharge of the system's obligation with regard to that

benefit payment. The convicted person holds all payments received in constructive trust for the rightful recipient.

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

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

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

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

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

Sec. 844.601. PLAN FUNDING BY NON-ADOPTING COUNTY. (a)

1 This section applies only to a county that began participation in
2 the retirement system before January 1, 1992, and has not adopted
3 the provisions of Subchapter H.

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

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

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

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

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

26 (4) any combination of these actions.

27 (d) An order adopted under Subsection (c) takes effect on

1 the first day of the calendar year that begins after the date the
2 retirement system's actuary makes a determination described by
3 Subsection (c).

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

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

18 SECTION 23. Section 844.701, Government Code, is amended to
19 read as follows:

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

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

1 ~~by the system.~~

2 ~~[(c) Other provisions of this subtitle apply to the plan~~
3 ~~provisions of this subchapter except as modified by this~~
4 ~~subchapter.]~~

5 SECTION 24. Section 844.704, Government Code, is amended to
6 read as follows:

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

1 employee contributions not otherwise matched at a higher
2 percentage. The governing body may thereafter reduce the
3 percentage used in determining multiple matching credits [~~under~~
4 ~~Section 843.402~~] for contributions made after the effective date of
5 the reduction to zero or any percentage that is a multiple of five
6 percent, to take effect on the next January 1 after the date of the
7 reduction.

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

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

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

1 this subtitle ~~[or authorize,~~

2 ~~[(1) an increase in retirement annuities under Section~~
3 ~~844.209,~~

4 ~~[(2) an increase in retirement annuities under Section~~
5 ~~844.208,~~

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

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

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

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

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

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

1 requirements of this section. ~~An [After approval by the board, an]~~
2 order or resolution adopted after participation begins may take
3 effect only on January 1 of a year[~~, except that an order or~~
4 ~~resolution for a subdivision that begins participation after~~
5 ~~January 1, 1992, may take effect on the date the subdivision begins~~
6 ~~participation]~~.

7 SECTION 25. Section 845.107, Government Code, is amended to
8 read as follows:

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

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

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

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

23 (B) drafts of an audit report or portions of
24 those drafts.

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

1 (c) In addition to the financial audit required by
2 Subsection (b), the board of trustees may initiate or commission an
3 audit or investigation of activities, functions, or operations of
4 the retirement system as the board determines appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 SECTION 31. Section 845.309(a), Government Code, is amended
3 to read as follows:

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

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

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

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

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

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

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

24 (5) to the accounts of subdivisions, other than
25 subdivisions otherwise described by this section, [~~an amount~~
26 ~~derived by applying a~~] positive or negative amounts [~~rate,~~] as
27 determined under rules adopted by the board prescribing the

1 allocation methodology for the accounts~~[, to the January 1 balances~~
2 ~~of that year]~~; and

3 (6) to the accounts of subdivisions to which Section
4 842.052 or 842.053 applies, positive or negative amounts as
5 determined by the board.

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

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

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

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

25 Sec. 845.405. ALTERNATIVE PERIODS FOR ADMINISTRATIVE
26 COMPLIANCE. (a) Notwithstanding any other provision of this
27 subtitle, the board of trustees may authorize a subdivision to

1 remit to the retirement system contributions, deposits, and other
2 payments on the basis of a period that is less than a month,
3 including a weekly, biweekly, or other semimonthly period. A
4 subdivision authorized to remit amounts more frequently than
5 monthly shall make reports and filings and perform other actions
6 accordingly, and the retirement system shall credit payments
7 accordingly.

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

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

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

27 SECTION 35. Section 845.407(a), Government Code, is amended

1 to read as follows:

2 (a) Except as provided by Subsections (c), (d), and (e), a
3 participating subdivision that fails to provide the information
4 required by Section 845.403 or to pay all contributions required by
5 this subchapter to be made and remitted to the retirement system not
6 later than the 15th day of the month in which they become due shall
7 pay a penalty under this section. The penalty for a past-due
8 monthly remission is equal to interest on the past-due amounts for
9 each day past due at a nominal interest rate of 12 percent, plus a
10 \$500 administrative fee. If the penalty is not paid within three
11 months after the date notice of the penalty has been sent to the
12 subdivision, the retirement system shall deduct the penalty from
13 the subdivision's account in the subdivision accumulation fund.
14 The interest portion of the penalty shall be deposited by the
15 retirement system in the distributable income account of the income
16 ~~[interest]~~ fund. The administrative fee portion of the penalty
17 shall be deposited by the retirement system in the expense fund.

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

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

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

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

SECTION 38. The following laws are repealed:

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

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

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

ADOPTED

MAY 19 2009

Atty Gen
Secretary of the Senate

By: Williams

H.B. No. 407

Substitute the following for H.B. No. 407 :

By: [Signature]

C.S. H.B. No. 407

A BILL TO BE ENTITLED

1 AN ACT

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

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

6 SECTION 1. Section 841.001, Government Code, is amended by
7 amending Subdivisions (1), (6), and (17) and adding Subdivision
8 (1-a) to read as follows:

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

12 (A) the mortality table published by the
13 Conference of Actuaries in Public Practice and known as the UP-1984
14 table with an age setback of five years for retired or disabled
15 annuitants and an age setback of 10 years for beneficiaries, with a
16 30-percent reserve refund assumption for the standard benefit; or

17 (B) a mortality basis adopted under Section
18 845.110(c).

19 (1-a) "Accrued benefit" means the sum of a member's
20 accumulated contributions and service credit calculated as of a
21 specified date.

22 (6) "Compensation" means the sum of payments that are
23 made to an employee for performance of personal services as
24 certified by a participating subdivision, including nonmonetary

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

23 (17) "Subdivision" means a political subdivision of
24 the state that is not eligible to participate in any other statewide
25 retirement system or that is not currently participating in a
26 retirement system established by the legislature. The term
27 includes the Texas Association of Counties, the retirement system

1 [~~Texas County and District Retirement System~~], and a city-county
2 hospital jointly managed under Subchapter B, Chapter 265, Health
3 and Safety Code. The term does not include a branch, division,
4 department, employee classification group, or other separately
5 identified component of a political subdivision.

6 SECTION 2. Section 841.006, Government Code, is amended to
7 read as follows:

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

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

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

20 (2) pay the deducted amount directly to the health
21 plan provider, subject to the requirements of Section 402(1),
22 Internal Revenue Code of 1986, or other applicable federal law, and
23 the rules adopted by the board.

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

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

27 (a) On receipt of a qualified domestic relations order incident to

1 a divorce that awards a portion of a member's accrued benefit to a
2 former spouse of the member and that strictly follows the terms and
3 format of the model qualified domestic relations order, as well as
4 any other requirements, adopted by the board of trustees for this
5 purpose, the retirement system shall divide the accrued benefit
6 into two separate benefits that, in combination at the time of
7 division, are actuarially equivalent to the undivided accrued
8 benefit.

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

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

24 (d) The board of trustees has sole authority and discretion
25 to:

26 (1) specify the terms and format that are required for
27 a qualified domestic relations order to be acceptable for purposes

1 of Subsection (a);

2 (2) require strict compliance for qualification;

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

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

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

19 SECTION 4. Section 842.108, Government Code, is amended to
20 read as follows:

21 Sec. 842.108. WITHDRAWAL OF ACCUMULATED CONTRIBUTIONS.

22 (a) [(b)] A member who has separated from employment with a
23 participating subdivision may submit an application to withdraw the
24 member's accumulated contributions attributable to service with
25 that subdivision. A withdrawal cancels the person's [~~credited~~
26 ~~service and~~] service credit attributable to service with that
27 subdivision on the date the retirement system makes payment of any

1 portion of the member's accumulated contributions[~~—Credited~~
2 ~~service that has been canceled may not be used to determine~~
3 ~~eligibility for a later retirement unless it is reestablished under~~
4 ~~Section 803.203, 843.003, or 843.0031~~].

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

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

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

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

3 Sec. 842.110. RESUMPTION OF SERVICE AFTER WITHDRAWAL OR
4 RETIREMENT [~~BY RETIREE~~].

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

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

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

25 SECTION 7. Section 843.001, Government Code, is amended to
26 read as follows:

27 Sec. 843.001. TYPES OF CREDITABLE SERVICE. The types of

1 service creditable as credited service in the retirement system are
2 prior service, current service, and optional service. A member may
3 not be credited in this system with more than one month of credited
4 service for a specific calendar month, regardless of the number of
5 employers of the member, the positions held, or the types of
6 service.

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

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

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

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

21 SECTION 10. Section 843.004, Government Code, is amended to
22 read as follows:

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

1 SECTION 11. Section 843.201, Government Code, is amended to
2 read as follows:

3 Sec. 843.201. SERVICE CREDIT FOR CERTAIN PUBLIC
4 EMPLOYMENT. [~~(a)~~] In accordance with rules adopted by the board
5 of trustees, the governing body of a participating subdivision by
6 order may authorize the establishment of credited service and prior
7 service credit in the retirement system for service performed in a
8 public hospital, utility, or other public facility or governmental
9 function during a time the facility was operated or function was
10 performed by a unit of government other than the subdivision and
11 before the date that the public hospital, utility, or other public
12 facility or governmental function was taken over by the subdivision
13 [~~+~~

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

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

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

27 ~~[(1) on the effective date of subdivision~~

1 ~~participation, for service under Subsection (a)(1), or~~

2 ~~[(2) on the date of acquisition of the facility or the~~
3 ~~date the governmental function was taken over, for service under~~
4 ~~Subsection (a)(2)].~~

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

9 SECTION 12. Section 843.401, Government Code, is amended to
10 read as follows:

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

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

21 (a) In this section:

22 (1) "Qualified ~~[, "qualified]~~ military service" means

23 service in the uniformed services, as that term is defined in the

24 Uniformed Services Employment and Reemployment Rights Act of 1994

25 (38 U.S.C. Section 4301 et seq.), that meets the requirements of

26 that Act as it now exists or is amended as to the character of

27 service performed.

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

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

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

1 ~~period required to receive a service retirement annuity at the age~~
2 ~~of 60 from the subdivision from which credit under this subsection~~
3 ~~is sought~~]. An eligible member may establish not more than five
4 years of credited service under this subsection by filing an
5 application with the retirement system.

6 SECTION 14. Section 843.504, Government Code, is amended to
7 read as follows:

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

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

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

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

1 (c) The effective date of a member's disability retirement
2 is the date the member designates at the time the member applies for
3 retirement under Section 844.301, but the date must be the last day
4 of a calendar month and may not precede the later of the date the
5 member became disabled or the date the member terminated
6 ~~[terminates]~~ employment with all participating subdivisions.

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

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

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

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

27 ~~[(1) the person who was designated as beneficiary by~~

1 ~~the retiree is the same person as the alternate payee,~~

2 ~~[(2) the order specifies that one of the two annuities~~
3 ~~is payable over the remaining life of the retiree, with no payments~~
4 ~~to be made under that annuity after the death of the retiree, and~~

5 ~~[(3) the order specifies that the annuity payable to~~
6 ~~the alternate payee is payable over the remaining life of that~~
7 ~~person, with no payments to be made under that annuity after the~~
8 ~~death of the alternate payee named in the order].~~

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

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

19 Sec. 844.008. LIMITATION ON PAYMENT OF BENEFITS.

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

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

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

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

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

27 SECTION 20. Section 844.301(a), Government Code, is amended

1 to read as follows:

2 (a) A member may apply for disability retirement by filing a
3 valid application for retirement with the retirement system [~~on or~~
4 ~~before the member's effective retirement date designated on the~~
5 ~~application~~].

6 SECTION 21. Section 844.404, Government Code, is amended to
7 read as follows:

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

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

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

24 (c) The retirement system is not liable for any benefit paid
25 to a convicted person before the date the system receives actual
26 notice of the conviction, and any payment made before that date is a
27 complete discharge of the system's obligation with regard to that

1 benefit payment. The convicted person holds all payments received
2 in constructive trust for the rightful recipient.

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

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

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

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

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

27 Sec. 844.601. PLAN FUNDING BY NON-ADOPTING COUNTY. (a)

1 This section applies only to a county that began participation in
2 the retirement system before January 1, 1992, and has not adopted
3 the provisions of Subchapter H.

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

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

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

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

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

26 (4) any combination of these actions.

27 (d) An order adopted under Subsection (c) takes effect on

1 the first day of the calendar year that begins after the date the
2 retirement system's actuary makes a determination described by
3 Subsection (c).

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

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

18 SECTION 23. Section 844.701, Government Code, is amended to
19 read as follows:

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

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

1 ~~by the system.~~

2 ~~[(c) Other provisions of this subtitle apply to the plan~~
3 ~~provisions of this subchapter except as modified by this~~
4 ~~subchapter.]~~

5 SECTION 24. Section 844.704, Government Code, is amended to
6 read as follows:

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

1 employee contributions not otherwise matched at a higher
2 percentage. The governing body may thereafter reduce the
3 percentage used in determining multiple matching credits [~~under~~
4 ~~Section 843.402~~] for contributions made after the effective date of
5 the reduction to zero or any percentage that is a multiple of five
6 percent, to take effect on the next January 1 after the date of the
7 reduction.

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

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

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

1 this subtitle ~~[or authorize]~~
2 ~~[(1) an increase in retirement annuities under Section~~
3 ~~844.209,~~
4 ~~[(2) an increase in retirement annuities under Section~~
5 ~~844.208,~~
6 ~~[(3) the reestablishment of service credit previously~~
7 ~~forfeited under Section 843.003,~~
8 ~~[(4) the establishment of credited service for~~
9 ~~military service under Section 843.502(c),~~
10 ~~[(5) an optional service retirement eligibility~~
11 ~~provision described by Section 844.1021, or~~
12 ~~[(6) the partial lump-sum distribution on service~~
13 ~~retirement under Section 844.009].~~

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

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

1 requirements of this section. An ~~[After approval by the board, an]~~
2 order or resolution adopted after participation begins may take
3 effect only on January 1 of a year~~[, except that an order or~~
4 ~~resolution for a subdivision that begins participation after~~
5 ~~January 1, 1992, may take effect on the date the subdivision begins~~
6 ~~participation]~~.

7 SECTION 25. Section 845.107, Government Code, is amended to
8 read as follows:

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

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

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

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

23 (B) drafts of an audit report or portions of
24 those drafts.

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

1 (c) In addition to the financial audit required by
2 Subsection (b), the board of trustees may initiate or commission an
3 audit or investigation of activities, functions, or operations of
4 the retirement system as the board determines appropriate.

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

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

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

15 (c) On recommendation of the retirement system's actuary,
16 the board of trustees by rule may adopt a mortality basis to be used
17 in determining actuarial equivalents. A mortality basis adopted
18 under this subsection may not be applied in a manner that would
19 reduce a participant's monthly benefit that has accrued before the
20 later of the date the mortality basis is adopted or the date the
21 mortality basis is implemented.

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

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

27 SECTION 28. Section 845.1151, Government Code, is amended

1 to read as follows:

2 Sec. 845.1151. ELECTRONIC INFORMATION. ~~[(a) In this~~
3 ~~section, "participant" has the meaning assigned by Section~~
4 ~~845.114(a).~~

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

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

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

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

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

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

SECTION 31. Section 845.309(a), Government Code, is amended to read as follows:

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

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

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

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

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

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

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

(5) to the accounts of subdivisions, other than subdivisions otherwise described by this section, [~~an amount derived by applying a~~] positive or negative amounts [~~rate,~~] as determined under rules adopted by the board prescribing the allocation methodology for the accounts [~~, to the January 1 balances~~]

1 ~~of that year~~]; and

2 (6) to the accounts of subdivisions to which Section
3 842.052 or 842.053 applies, positive or negative amounts as
4 determined by the board.

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

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

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

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

24 Sec. 845.405. ALTERNATIVE PERIODS FOR ADMINISTRATIVE
25 COMPLIANCE. (a) Notwithstanding any other provision of this
26 subtitle, the board of trustees may authorize a subdivision to
27 remit to the retirement system contributions, deposits, and other

1 payments on the basis of a period that is less than a month,
2 including a weekly, biweekly, or other semimonthly period. A
3 subdivision authorized to remit amounts more frequently than
4 monthly shall make reports and filings and perform other actions
5 accordingly, and the retirement system shall credit payments
6 accordingly.

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

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

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

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

1 (a) Except as provided by Subsections (c), (d), and (e), a
2 participating subdivision that fails to provide the information
3 required by Section 845.403 or to pay all contributions required by
4 this subchapter to be made and remitted to the retirement system not
5 later than the 15th day of the month in which they become due shall
6 pay a penalty under this section. The penalty for a past-due
7 monthly remission is equal to interest on the past-due amounts for
8 each day past due at a nominal interest rate of 12 percent, plus a
9 \$500 administrative fee. If the penalty is not paid within three
10 months after the date notice of the penalty has been sent to the
11 subdivision, the retirement system shall deduct the penalty from
12 the subdivision's account in the subdivision accumulation fund.
13 The interest portion of the penalty shall be deposited by the
14 retirement system in the distributable income account of the income
15 ~~[interest]~~ fund. The administrative fee portion of the penalty
16 shall be deposited by the retirement system in the expense fund.

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

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

27 (b) The retirement system may not recover from a participant

1 ~~[member, former member, retiree, annuitant, or beneficiary]~~ any
2 overpayment made more than three years before the date the
3 overpayment is discovered. This subsection does not apply to an
4 overpayment a reasonable person should know the person is not
5 entitled to receive.

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

13 SECTION 38. The following laws are repealed:

14 (1) Section 843.0031(a), Government Code;

15 (2) Sections 843.502(d) and (e), Government Code;

16 (3) Sections 844.605, 844.606, 844.607, 844.608, and
17 844.609, Government Code;

18 (4) Section 845.115(f), Government Code; and

19 (5) Section 95, Chapter 873 (H.B. 1587), Acts of the
20 80th Legislature, Regular Session, 2007.

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

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB407 by Kuempel (Relating to participation and credit in, contributions to, benefits from, and administration of the Texas County and District Retirement System.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would amend the Government Code, and repeal portions of the Government Code, as it relates to the Texas County and District Retirement System (TCDRS).

Local Government Impact

According to information provided by TCDRS, it is assumed that any fiscal impact associated with administrative changes to the system could be absorbed within existing resources. In addition, it is assumed that provisions that could affect requirements of participating political subdivisions would not have a significant fiscal impact.

Source Agencies:

LBB Staff: JOB, SD, KJG, JRO, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 12, 2009

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB407 by Kuempel (Relating to participation and credit in, contributions to, benefits from, and administration of the Texas County and District Retirement System.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Government Code, and repeal portions of the Government Code, as it relates to the Texas County and District Retirement System (TCDRS).

Local Government Impact

According to information provided by TCERS, it is assumed that any fiscal impact associated with administrative changes to the system could be absorbed within existing resources. In addition, it is assumed that provisions that could affect requirements of participating political subdivisions would not have a significant fiscal impact.

Source Agencies:

LBB Staff: JOB, KJG, JRO, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 3, 2009

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB407 by Kuempel (Relating to participation and credit in, contributions to, benefits from, and administration of the Texas County and District Retirement System.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Government Code, and repeal portions of the Government Code, as it relates to the Texas County and District Retirement System (TCDRS).

Local Government Impact

According to information provided by TCDRS, it is assumed that any fiscal impact associated with administrative changes to the system could be absorbed within existing resources. In addition, it is assumed that provisions that could affect requirements of participating political subdivisions would not have a significant fiscal impact.

Source Agencies:

LBB Staff: JOB, KJG, JRO, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 27, 2009

TO: Honorable Vicki Truitt, Chair, House Committee on Pensions, Investments & Financial Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB407 by Kuempel (Relating to participation and credit in, contributions to, benefits from, and administration of the Texas County and District Retirement System.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Government Code, and repeal portions of the Government Code, as it relates to the Texas County and District Retirement System (TCDRS).

Local Government Impact

According to information provided by TCDRS, it is assumed that any fiscal impact associated with administrative changes to the system could be absorbed within existing resources. In addition, it is assumed that provisions that could affect requirements of participating political subdivisions would not have a significant fiscal impact.

Source Agencies:

LBB Staff: JOB, JRO, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 24, 2009

TO: Honorable Vicki Truitt, Chair, House Committee on Pensions, Investments & Financial Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB407 by Kuempel (Relating to participation and credit in, contributions to, benefits from, and administration of the Texas County and District Retirement System.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Government Code, and repeal portions of the Government Code, as it relates to the Texas County and District Retirement System (TCDRS).

Local Government Impact

According to information provided by TCERS, it is assumed that any fiscal impact associated with administrative changes to the system could be absorbed within existing resources. In addition, it is assumed that provisions that could affect requirements of participating political subdivisions would not have a significant fiscal impact.

Source Agencies:

LBB Staff: JOB, JRO, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

ACTUARIAL IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 12, 2009

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB407 by Kuempel (Relating to participation and credit in, contributions to, benefits from, and administration of the Texas County and District Retirement System.), **Committee Report 2nd House, Substituted**

Texas County & District Retirement System (TCDRS) is an agent multiple-employer system, which is an aggregation of 574 single employer plans, with pooled administrative and investment functions. For each employer, a separate account is maintained to assure that its contributions are used exclusively for the benefit of its employees. Since an actuarial valuation is performed for each employer, the potential impact of this bill will vary by employer.

ACTUARIAL EFFECTS:

According to the actuarial analysis, CSHB 407 will have only a very small financial impact on the TCDRS system as a whole and on its individual employers. TCDRS, as a whole, and each of its individual employer plans are currently funded on an actuarially sound basis, as defined by the Texas Pension Review Board. Adoption of this legislation will not impact that status.

SYNOPSIS OF PROVISIONS:

CSHB 407, to be effective January 1, 2010, except Section 841.0091 and 841.601, Government Code, as added by this act, and Section 845.315, Government Code, as amended by this act, take effect September 1, 2009, would provide the following changes:

- ☐ Requires that all participating subdivisions adopt a variable rate funding arrangement, except for those exempted under Section 844.601
- ☐ Adds Section 844.601 to the TCDRS code. This provision would exempt any counties that have not adopted a variable rate funding agreement from doing so, so long as the counties contribute toward their unfunded obligations over an amortization period no greater than the period used by other TCDRS employers
- ☐ Allows the TCDRS Board to adopt rules regarding the allocation of investment earnings or losses to employers' accounts
- ☐ Eliminates the requirement that the allocation of investment earnings and losses be based on January 1 opening balances
- ☐ Requires that all employers who adopt variable rate funding have a maximum vesting period of 10 years and adopt rule of 80 eligibility
- ☐ Allows for the board of trustees to adopt a mortality table to be used in determining actuarial equivalents
- ☐ Allows for an ex-spouse under a qualified domestic relations order to have annuity options independent of the election by the member
- ☐ Would require all employers to adopt a provision that allows for vested members to receive service credit for prior military service that they are not eligible for under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA)
- ☐ Would allow for TCDRS members to count service for refunded accounts under proportionate retirement systems toward retirement eligibility

FINDINGS AND CONCLUSIONS:

This bill would amend the Texas County & District Retirement System (TCDRS) Act to allow a number of changes relating to the funding, eligibility and benefits of the System. Several changes are also related to the administration of the System and clarification of the law.

Note that benefits in this system are actuarially reduced for earlier retirement ages, so that allowing members additional service credits only for the purpose of eligibility would generally have only a minimal actuarial impact.

CSHB 407 would require all districts to adopt a variable rate funding agreement, where the required contribution varies from year to year. Currently, 97% of TCDRS employers have adopted this method. Under this approach, the employer contributes the same percentage of pay each year, unless the actuary deems the fixed rate insufficient to pay off the employer's unfunded actuarial accrued liability over a period of no more than 30 years.

This change is not expected to have a material impact on the overall funding of TCDRS, but it does have the potential to impact the minimum required contribution rate of 14 participating districts. For these districts, the calculated contribution is expected to decrease. Note that this is based on the December 31, 2007 valuation and does not take into account the impact of potential negative asset performance after that date. This could potentially result in increased contributions. It should be noted that these districts can continue to contribute at their current fixed rate.

Under CSHB 407, any employer adopting a variable funding rate must also adopt a maximum vesting period of 10 years. This change would require three employers to switch from 12 year vesting to 10 year vesting (or less). In addition these employers would have to adopt rule of 80 retirement eligibility. Although the switch from 12 year vesting to 10 year vesting and the rule of 80 would tend to increase the required contribution rate, it would be offset by the expected decrease due to variable rate funding being less than fixed rate funding. Therefore this change would have some impact on the liabilities and contribution rates of the affected counties, but virtually no impact on the overall funding of TCDRS.

The bill would create a provision for any counties who have not adopted variable rate funding to continue their fixed rate funding. There is only one county that would be affected by this provision. This county would be required to contribute toward its unfunded obligations over an amortization period no greater than the period used by other TCDRS employers. Effective for the December 31, 2008 valuation, that period is 20 years. The amortization period for the county based on the December 31, 2007 valuation is 9.2 years. These changes would not take effect until January 1, 2010.

Under the current language, TCDRS is required to apply a specific rate based on each employers January 1st account balance. The revised language would allow the Board of Trustees flexibility in adopting rules to allocate investment earnings or losses. There is no direct actuarial impact unless a revised allocation method is adopted. If this does occur, the impact will be neutral to the system as a whole, and the effect for an individual employer will be dependent on the actual investment returns and the employer's characteristics.

Currently, TCDRS uses the UP-1984 mortality table for it's calculation of actuarial experience. CSHB 407 would allow for the board of trustees to adopt a new mortality table based on the recommendation of the system's actuary. This would have no actuarial impact on TCDRS as it would make no change to the current mortality table, but it would allow for a change in the future.

The bill would allow for an ex-spouse under a qualified domestic order to have annuity options independent of the election of the member. Currently, an ex-spouse must wait until a member retires then receive the benefit in the same form of payment. Cost or savings from this new approach is not expected to be material.

CSHB 407 would adopt a provision which would allow vested members to receive service credit for prior military service which they are not eligible for under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA). This provision is currently in law on an optional basis; but CSHB 407 would make it mandatory. Currently 70% of all TCDRS employers have adopted this provision, including all but two counties. Since the additional service would only impact eligibility and not benefit amounts, the impact of this change is expected to be immaterial.

Currently, TCDRS members can only count service with another proportionate retirement system that is attributable to an active account. The proposed change would allow for members to also count service for refunded accounts from proportionate systems. Service credit from proportionate retirement systems can only be counted toward eligibility purposes. Because the change only impacts eligibility and not benefit amounts, the effect is expected to be immaterial.

TCDRS, as a whole, and each of its individual employer plans are currently funded on an actuarially sound basis, as defined by the Texas Pension Review Board. Adoption of this legislation will not impact that status.

METHODOLOGY AND STANDARDS:

The analysis relies on the participant data, financial information, benefit structure and actuarial assumptions and methods used in the December 31, 2007 actuarial valuation of TCDRS. No adjustments were made for actual returns in 2008. The analysis assumes no further changes are made to TCDRS and cautions that the combined economic impact of several proposals can exceed the effect of each proposal considered individually. According to the PRB actuary, the actuarial assumptions, methods and procedures appear to be reasonable. All actuarial projections have a degree of uncertainty because they are based on the probability of occurrence of future contingent events. Accordingly, actual results will be different from the results contained in the analysis to the extent actual future experience varies from the experience implied by the assumptions.

SOURCES:

Actuarial Analysis by Mark C. Olleman, Actuary, and Nick J. Collier, Actuary, Milliman and Associates, March 10th, 2009
Actuarial Review by Mr. Martin McCaulay, Deputy Executive Director/Actuary, Pension Review Board., March 26, 2009

GLOSSARY OF ACTUARIAL TERMS:

Normal Cost– the current cost as a percentage of payroll that is necessary to pre-fund pension benefits adequately during the course of an employee's career.

Unfunded Liability– the amount of total liabilities that are not covered by the total assets of a retirement system. Both liabilities and assets are measured on an actuarial basis using certain assumptions including average annual salary increases, the investment return of the retirement fund, and the demographics of retirement system members.

Amortization Period– the number of years required to pay-off the unfunded liability. Public retirement systems have found that amortization periods ranging from 20 to 40 years are acceptable. State law prohibits changes in TRS, ERS, or JRS II benefits or state contribution rates if the result is an amortization period exceeding 30.9 years.

Source Agencies: 338 Pension Review Board

LBB Staff: JOB, KJG, WM

LEGISLATIVE BUDGET BOARD
Austin, Texas

ACTUARIAL IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

March 26, 2009

TO: Honorable Vicki Truitt, Chair, House Committee on Pensions, Investments & Financial Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB407 by Kuempel (Relating to participation and credit in, contributions to, benefits from, and administration of the Texas County and District Retirement System.), **Committee Report 1st House, Substituted**

Texas County & District Retirement System (TCDRS) is an agent multiple-employer system, which is an aggregation of 574 single employer plans, with pooled administrative and investment functions. For each employer, a separate account is maintained to assure that its contributions are used exclusively for the benefit of its employees. Since an actuarial valuation is performed for each employer, the potential impact of this bill will vary by employer.

ACTUARIAL EFFECTS:

According to the actuarial analysis, CSHB 407 will have only a very small financial impact on the TCDRS system as a whole and on its individual employers. TCDRS, as a whole, and each of its individual employer plans are currently funded on an actuarially sound basis, as defined by the Texas Pension Review Board. Adoption of this legislation will not impact that status.

SYNOPSIS OF PROVISIONS:

CSHB 407, to be effective January 1, 2010, except Section 841.0091 and 841.601, Government Code, as added by this act, and Section 845.315, Government Code, as amended by this act, take effect September 1, 2009, would provide the following changes:

- ☐ Requires that all participating subdivisions adopt a variable rate funding arrangement, except for those exempted under Section 844.601
- ☐ Adds Section 844.601 to the TCDRS code. This provision would exempt any counties that have not adopted a variable rate funding agreement from doing so, so long as the counties contribute toward their unfunded obligations over an amortization period no greater than the period used by other TCDRS employers
- ☐ Allows the TCDRS Board to adopt rules regarding the allocation of investment earnings or losses to employers' accounts
- ☐ Eliminates the requirement that the allocation of investment earnings and losses be based on January 1 opening balances
- ☐ Requires that all employers who adopt variable rate funding have a maximum vesting period of 10 years and adopt rule of 80 eligibility
- ☐ Allows for the board of trustees to adopt a mortality table to be used in determining actuarial equivalents
- ☐ Allows for an ex-spouse under a qualified domestic relations order to have annuity options independent of the election by the member
- ☐ Would require all employers to adopt a provision that allows for vested members to receive service credit for prior military service that they are not eligible for under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA)
- ☐ Would allow for TCDRS members to count service for refunded accounts under proportionate retirement systems toward retirement eligibility

FINDINGS AND CONCLUSIONS:

This bill would amend the Texas County & District Retirement System (TCDRS) Act to allow a number of changes relating to the funding, eligibility and benefits of the System. Several changes are also related to the administration of the System and clarification of the law.

Note that benefits in this system are actuarially reduced for earlier retirement ages, so that allowing members additional service credits only for the purpose of eligibility would generally have only a minimal actuarial impact.

CSHB 407 would require all districts to adopt a variable rate funding agreement, where the required contribution varies from year to year. Currently, 97% of TCDRS employers have adopted this method. Under this approach, the employer contributes the same percentage of pay each year, unless the actuary deems the fixed rate insufficient to pay off the employer's unfunded actuarial accrued liability over a period of no more than 30 years.

This change is not expected to have a material impact on the overall funding of TCDRS, but it does have the potential to impact the minimum required contribution rate of 14 participating districts. For these districts, the calculated contribution is expected to decrease. Note that this is based on the December 31, 2007 valuation and does not take into account the impact of potential negative asset performance after that date. This could potentially result in increased contributions. It should be noted that these districts can continue to contribute at their current fixed rate.

Under CSHB 407, any employer adopting a variable funding rate must also adopt a maximum vesting period of 10 years. This change would require three employers to switch from 12 year vesting to 10 year vesting (or less). In addition these employers would have to adopt rule of 80 retirement eligibility. Although the switch from 12 year vesting to 10 year vesting and the rule of 80 would tend to increase the required contribution rate, it would be offset by the expected decrease due to variable rate funding being less than fixed rate funding. Therefore this change would have some impact on the liabilities and contribution rates of the affected counties, but virtually no impact on the overall funding of TCDRS.

The bill would create a provision for any counties who have not adopted variable rate funding to continue their fixed rate funding. There is only one county that would be affected by this provision. This county would be required to contribute toward its unfunded obligations over an amortization period no greater than the period used by other TCDRS employers. Effective for the December 31, 2008 valuation, that period is 20 years. The amortization period for the county based on the December 31, 2007 valuation is 9.2 years. These changes would not take effect until January 1, 2010.

Under the current language, TCDRS is required to apply a specific rate based on each employers January 1st account balance. The revised language would allow the Board of Trustees flexibility in adopting rules to allocate investment earnings or losses. There is no direct actuarial impact unless a revised allocation method is adopted. If this does occur, the impact will be neutral to the system as a whole, and the effect for an individual employer will be dependent on the actual investment returns and the employer's characteristics.

Currently, TCDRS uses the UP-1984 mortality table for it's calculation of actuarial experience. CSHB 407 would allow for the board of trustees to adopt a new mortality table based on the recommendation of the system's actuary. This would have no actuarial impact on TCDRS as it would make no change to the current mortality table, but it would allow for a change in the future.

The bill would allow for an ex-spouse under a qualified domestic order to have annuity options independent of the election of the member. Currently, an ex-spouse must wait until a member retires then receive the benefit in the same form of payment. Cost or savings from this new approach is not expected to be material.

CSHB 407 would adopt a provision which would allow vested members to receive service credit for prior military service which they are not eligible for under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA). This provision is currently in law on an optional basis; but CSHB 407 would make it mandatory. Currently 70% of all TCDRS employers have adopted this provision, including all but two counties. Since the additional service would only impact eligibility and not benefit amounts, the impact of this change is expected to be immaterial.

Currently, TCDRS members can only count service with another proportionate retirement system that is attributable to an active account. The proposed change would allow for members to also count service for refunded accounts from proportionate systems. Service credit from proportionate retirement systems can only be counted toward eligibility purposes. Because the change only impacts eligibility and not benefit amounts, the effect is expected to be immaterial.

TCDRS, as a whole, and each of its individual employer plans are currently funded on an actuarially sound basis, as defined by the Texas Pension Review Board. Adoption of this legislation will not impact that status.

METHODOLOGY AND STANDARDS:

The analysis relies on the participant data, financial information, benefit structure and actuarial assumptions and methods used in the December 31, 2007 actuarial valuation of TCDRS. No adjustments were made for actual returns in 2008. The analysis assumes no further changes are made to TCDRS and cautions that the combined economic impact of several proposals can exceed the effect of each proposal considered individually. According to the PRB actuary, the actuarial assumptions, methods and procedures appear to be reasonable. All actuarial projections have a degree of uncertainty because they are based on the probability of occurrence of future contingent events. Accordingly, actual results will be different from the results contained in the analysis to the extent actual future experience varies from the experience implied by the assumptions.

SOURCES:

Actuarial Analysis by Mark C. Olleman, Actuary, and Nick J. Collier, Actuary, Milliman and Associates, March 10th, 2009
Actuarial Review by Mr. Martin McCaulay, Deputy Executive Director/Actuary, Pension Review Board., March 26, 2009

GLOSSARY OF ACTUARIAL TERMS:

Normal Cost-- the current cost as a percentage of payroll that is necessary to pre-fund pension benefits adequately during the course of an employee's career.

Unfunded Liability-- the amount of total liabilities that are not covered by the total assets of a retirement system. Both liabilities and assets are measured on an actuarial basis using certain assumptions including average annual salary increases, the investment return of the retirement fund, and the demographics of retirement system members.

Amortization Period-- the number of years required to pay-off the unfunded liability. Public retirement systems have found that amortization periods ranging from 20 to 40 years are acceptable. State law prohibits changes in TRS, ERS, or JRS II benefits or state contribution rates if the result is an amortization period exceeding 30.9 years.

Source Agencies: 338 Pension Review Board

LBB Staff: JOB, WM

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

ACTUARIAL IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

March 24, 2009

TO: Honorable Vicki Truitt, Chair, House Committee on Pensions, Investments & Financial Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB407 by Kuempel (Relating to participation and credit in, contributions to, benefits from, and administration of the Texas County and District Retirement System.), **As Introduced**

Texas County & District Retirement System (TCDRS) is an agent multiple-employer system, which is an aggregation of 574 single employer plans, with pooled administrative and investment functions. For each employer, a separate account is maintained to assure that its contributions are used exclusively for the benefit of its employees. Since an actuarial valuation is performed for each employer, the potential impact of this bill will vary by employer.

ACTUARIAL EFFECTS:

According to the actuarial analysis, HB 407 would have only a very small financial or actuarial impact on the TCERS system as a whole and on its individual employers. TCERS, as a whole, and each of its individual employer plans are currently funded on an actuarially sound basis, as defined by the Texas Pension Review Board. Adoption of this legislation will not impact that status.

SYNOPSIS OF PROVISIONS:

HB 407, to be effective January 1, 2010, except Section 841.0091, Government Code, as added by this act, and Sections 845.314 and 845.315, Government Code, as amended by this act, take effect September 1, 2009, would provide the following changes:

- Requires that all participating subdivisions adopt a variable rate funding arrangement, except for those exempted under Section 844.601
- Adds Section 844.601 to the TCERS code. This provision would exempt any counties that have not adopted a variable rate funding agreement from doing so, so long as the counties contribute toward their unfunded obligations over an amortization period no greater than the period used by other TCERS employers.
- Allows the board of trustees the ability to elect for differing rates of interest to be credited to the optional group term life fund, the employee saving fund, and the current service annuity retirement fund for periods specified by the board.
- Requires that all employers who adopt variable rate funding have a maximum vesting period of 10 years and adopt rule of 80 eligibility.
- Allows for the board of trustees to adopt a mortality table to be used in determining actuarial equivalents.
- Allows for an ex-spouse under a qualified domestic relations order to have annuity options independent of the election by the member.
- Would require all employers to adopt a provision that allows for vested members to receive service credit for prior military service that they are not eligible for under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA).
- Would allow for TCERS members to count service for refunded accounts under proportionate retirement systems toward retirement eligibility.

FINDINGS AND CONCLUSIONS:

This bill would amend the Texas County & District Retirement System (TCERS) Act to allow a number of changes relating to the funding, eligibility and benefits of the System. Several changes are also related to the administration of the System and clarification of the law.

Note that benefits in this system are actuarially reduced for earlier retirement ages, so that allowing members additional service credits only for the purpose of eligibility would generally have only a minimal actuarial impact.

HB 407 would require all districts to adopt a variable rate funding agreement, where the required contribution varies from year to year. Currently, 97% of TCDRS employers have adopted this method. Under this approach, the employer contributes the same percentage of pay each year, unless the actuary deems the fixed rate insufficient to pay off the employer's unfunded actuarial accrued liability over a period of no more than 30 years.

This change is not expected to have a material impact on the overall funding of TCDRS, but it does have the potential to impact the minimum required contribution rate of 14 participating districts. For these districts, the calculated contribution is expected to decrease, though they could continue their current contribution rate. Note that this is based on the December 31, 2007 valuation and does not take into account the impact of potential negative asset performance after that date, which could potentially result in increased contributions.

Under HB 407, any employer adopting a variable funding rate must also adopt a maximum vesting period of 10 years. This change would require three employers to switch from 12 year vesting to 10 year vesting (or less). In addition these employers would have to adopt rule of 80 retirement eligibility. Although the switch from 12 year vesting to 10 year vesting and the rule of 80 would tend to increase the required contribution rate, it would be offset by the expected decrease due to variable rate funding being less than fixed rate funding. Therefore this change would have some impact on the liabilities and contribution rates of the affected counties, but virtually no impact on the overall funding of TCDRS.

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Under the current language, TCDRS is required to apply a specific rate based on each employers January 1st account balance. The revised language would allow the Board of Trustees flexibility in adopting rules to allocate investment earnings or losses. There is no direct actuarial impact unless a revised allocation method is adopted. If this does occur, the impact will be neutral to the system as a whole, and the effect for an individual employer will be dependent on the actual investment returns and the employer's characteristics.

Currently, TCDRS uses the UP-1984 mortality table for it's calculation of actuarial experience. HB 407 would allow for the board of trustees to adopt a new mortality table based on the recommendation of the system's actuary. This would have no actuarial impact on TCDRS as it would make no change to the current mortality table, but it would allow for a change in the future.

The bill would allow for an ex-spouse under a qualified domestic order to have annuity options independent of the election of the member. Currently, an ex-spouse must wait until a member retires then receive the benefit in the same form of payment. Cost or savings from this new approach is not expected to be material.

HB 407 would adopt a provision which would allow vested members to receive service credit for prior military service which they are not eligible for under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA). This provision is currently in law on an optional basis; but HB 407 would make it mandatory. Currently 70% of all TCDRS employers have adopted this provision, including all but two counties. Since the additional service would only impact eligibility and not benefit amounts, the impact of this change is expected to be immaterial.

Currently, TCDRS members can only count service with another proportionate retirement system that is attributable to an active account. The proposed change would allow for members to also count service for refunded accounts from proportionate systems. Service credit from proportionate retirement systems can only be counted toward eligibility purposes. Because the change only impacts eligibility and not benefit amounts, the effect is expected to be immaterial.

TCDRS, as a whole, and each of its individual employer plans are currently funded on an actuarially sound basis, as defined by the Texas Pension Review Board. Adoption of this legislation will not impact that status.

METHODOLOGY AND STANDARDS:

The analysis relies on the participant data, financial information, benefit structure and actuarial assumptions and methods used in the December 31, 2007 actuarial valuation of TCDRS. No adjustments were made for actual market returns in 2008. The analysis assumes no further changes are made to TCDRS and cautions that the combined economic impact of several proposals can exceed the effect of each proposal considered individually. According to the PRB actuary, the actuarial assumptions, methods and procedures appear to be reasonable. All actuarial projections have a degree of uncertainty because they are based on the probability of occurrence of future contingent events. Accordingly, actual results will be different from the results contained in the analysis to the extent actual future experience varies from the experience implied by the assumptions.

SOURCES:

Actuarial Analysis by Mark C. Olleman, Actuary, and Nick J. Collier, Actuary, Milliman and Associates, March 10th, 2009
Actuarial Review by Mr. Martin McCaulay, Deputy Executive Director/Actuary, Pension Review Board., March 23, 2009

GLOSSARY OF ACTUARIAL TERMS:

Normal Cost-- the current cost as a percentage of payroll that is necessary to pre-fund pension benefits adequately

during the course of an employee's career.

Unfunded Liability-- the amount of total liabilities that are not covered by the total assets of a retirement system. Both liabilities and assets are measured on an actuarial basis using certain assumptions including average annual salary increases, the investment return of the retirement fund, and the demographics of retirement system members.

Amortization Period-- the number of years required to pay-off the unfunded liability. Public retirement systems have found that amortization periods ranging from 20 to 40 years are acceptable. State law prohibits changes in TRS, ERS, or JRS II benefits or state contribution rates if the result is an amortization period exceeding 30.9 years.

Source Agencies: 338 Pension Review Board

LBB Staff: JOB, WM

