

By: Flynn

H.B. No. 2821

Substitute the following for H.B. No. 2821:

By: Gutierrez

C.S.H.B. No. 2821

A BILL TO BE ENTITLED

1 AN ACT

2 relating to credit in, benefits from, and administration of the
3 Texas Municipal Retirement System.

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

5 SECTION 1. Section 851.001, Government Code, is amended by
6 adding Subdivision (8-a) and amending Subdivision (15) to read as
7 follows:

8 (8-a) "Excluded prior service credit" means prior
9 service credit described by Section 853.0015 and:

10 (A) adopted under Section 853.105(d-1); or

11 (B) required by Section 853.303(a-1), (a-2), or
12 (a-3).

13 (15) "Amortization period" means, as to a particular
14 municipality, the expiration of the maximum number of years, not to
15 exceed 30 years, [time ending with the later of:

16 ~~[(A) the expiration of 25 years after the~~
17 ~~effective date of the municipality's participation in the~~
18 ~~retirement system,~~

19 ~~[(B) the expiration of 25 years]~~ after the most
20 recent actuarial valuation date for the municipality~~[, or~~

21 ~~[(C) the period determined under Section~~
22 ~~855.407(h)].~~

23 SECTION 2. Section 851.004, Government Code, is amended to
24 read as follows:

1 Sec. 851.004. POWERS, [~~AND~~] PRIVILEGES, AND IMMUNITIES.

2 (a) The retirement system has the powers, privileges, and
3 immunities of a corporation, as well as the powers, privileges, and
4 immunities conferred by this subtitle.

5 (b) The board of trustees, director, members of an advisory
6 committee or medical board appointed by the board of trustees, and
7 staff of the retirement system are not liable for any action taken
8 or omission made or suffered by them in good faith in the
9 performance of any duty in connection with any program, system, or
10 benefit administered by the retirement system.

11 SECTION 3. The heading to Section 853.003, Government Code,
12 is amended to read as follows:

13 Sec. 853.003. BUY BACK OF CREDITED SERVICE PREVIOUSLY
14 CANCELED.

15 SECTION 4. Subchapter A, Chapter 853, Government Code, is
16 amended by adding Sections 853.0015 and 853.004 to read as follows:

17 Sec. 853.0015. EXCLUDED PRIOR SERVICE CREDIT. If a member
18 is entitled to receive excluded prior service credit under this
19 chapter, the excluded prior service credit certified to the member:

20 (1) may only be used to satisfy length of service
21 requirements for vesting and retirement eligibility; and

22 (2) may not be used to determine eligibility for or
23 computation of updated service credits.

24 Sec. 853.004. RULES FOR CREDITABLE SERVICE. The board of
25 trustees may adopt rules necessary or desirable to implement this
26 chapter.

27 SECTION 5. Section 853.105, Government Code, is amended by

1 amending Subsections (a), (c), and (d) and adding Subsection (d-1)
2 to read as follows:

3 (a) After receiving a certification of prior service and
4 average prior service compensation under Section 853.104, the
5 retirement system [~~board of trustees~~] shall determine the member's
6 prior service credit.

7 (c) The [~~For an employee of a municipality having an~~
8 ~~effective date of participation in the retirement system after~~
9 ~~December 31, 1975, the~~] prior service credit is an amount computed
10 as a percentage determined as provided by Subsection (d) or, if
11 applicable, Subsection (d-1), times a base credit equal to the
12 accumulation at three percent interest of a series of monthly
13 amounts for the number of months of approved prior service, times
14 the sum of:

15 (1) the rate of contributions required of employees of
16 the municipality for current service; plus

17 (2) the rate described in Subdivision (1) times the
18 municipal current service matching ratio.

19 (d) The governing body of a municipality [~~having an~~
20 ~~effective date of retirement system participation after December~~
21 ~~31, 1975,~~] shall determine in the ordinance providing for
22 participation the percentage to be applied against the base credit
23 in computing a prior service credit under Subsection (c). Except as
24 provided by Subsection (d-1), the [~~The~~] percentage adopted may be
25 any multiple of 10 percent that does not exceed 100 percent of the
26 base credit, with 10 percent being the minimum percentage a
27 municipality may adopt. A governing body may not adopt a percentage

1 under this subsection until the actuary first determines, and the
2 retirement system [~~board of trustees~~] concurs in the determination,
3 that the municipality is able to fund, before the 30th [~~25th~~]
4 anniversary of the effective date of its participation in the
5 retirement system, all prior service obligations that the
6 municipality proposes to assume under this section.

7 (d-1) The governing body of a municipality shall adopt, by
8 ordinance, a zero percent prior service credit if, before joining
9 the retirement system, the municipality provided retirement
10 benefits to its employees that were funded partly or wholly by the
11 municipality. Prior service credit adopted under this subsection
12 is excluded prior service credit.

13 SECTION 6. Section 853.106, Government Code, is amended to
14 read as follows:

15 Sec. 853.106. PRIOR SERVICE CERTIFICATE. (a) After
16 determining a member's prior service credit under Section 853.105,
17 the retirement system [~~board of trustees~~] shall issue to the member
18 a prior service certificate stating:

- 19 (1) the number of months of prior service credited;
20 (2) the average prior service compensation; and
21 (3) the prior service credit.

22 (b) As long as a person remains a member, the person's prior
23 service certificate is, for purposes of retirement, conclusive
24 evidence of the information it contains, except that a member or
25 participating municipality [~~, before the first anniversary of its~~
26 ~~issuance or modification,~~] may request that the retirement system
27 correct an error in the prior service [~~board of trustees to modify~~

1 ~~the~~] certificate in accordance with Section 852.110.

2 SECTION 7. Section 853.303, Government Code, is amended by
3 adding Subsections (a-1), (a-2), and (a-3) and amending Subsections
4 (c) and (d) to read as follows:

5 (a-1) This subsection applies to a participating
6 municipality that is required to adopt a zero percent prior service
7 credit under Section 853.105(d-1). If the governing body of a
8 participating municipality subject to this subsection authorizes
9 the granting of prior service credit to an employee under
10 Subsection (a), the employee is only entitled to receive excluded
11 prior service credit.

12 (a-2) This subsection applies to a participating
13 municipality that, before having a department of the municipality
14 begin participating in the retirement system, provided other
15 retirement benefits to its employees in that department funded
16 partly or wholly by the municipality. If, on or after January 1,
17 2020, the governing body of a participating municipality subject to
18 this subsection authorizes the granting of prior service credit to
19 an employee under Subsection (a), the employee is only entitled to
20 receive excluded prior service credit.

21 (a-3) This subsection applies to a participating
22 municipality that elected to discontinue the participation in the
23 retirement system of persons employed or reemployed after the date
24 of an election to discontinue under Section 852.006(a), provided
25 other retirement benefits to those persons funded partly or wholly
26 by the municipality, and subsequently elects, by ordinance, to have
27 those persons resume participating in the retirement system as

1 employees. If, on or after January 1, 2020, the governing body of a
2 participating municipality subject to this subsection authorizes
3 prior service credit under Subsection (a) to an employee described
4 by this subsection, the employee is only entitled to excluded prior
5 service credit.

6 (c) As soon as practicable after a member has filed a
7 statement of prior service under this section, the municipality
8 shall verify the prior service claimed and certify to the
9 retirement system [~~board of trustees~~] the creditable prior service
10 approved and the average monthly compensation paid to the member
11 during the period of the service.

12 (d) After receiving a certification of prior service and
13 average monthly compensation under this section, the retirement
14 system [~~board of trustees~~] shall:

15 (1) determine the prior service credit allowable to
16 the member in the manner provided by Section 853.105; and

17 (2) issue to the member a prior service certificate as
18 provided by Section 853.106.

19 SECTION 8. Section 853.401(a), Government Code, is amended
20 to read as follows:

21 (a) Except as provided by Subsection (b) and Section
22 853.0015, the governing body of a participating municipality by
23 ordinance may authorize the crediting in the retirement system of
24 updated service credits for service performed for the municipality
25 by members. Beginning January 1, 2022, a member must be a
26 contributing employee of the municipality on the date prescribed by
27 Section 853.402(e) to be eligible to receive an updated service

1 credit authorized under this section. An updated service credit
2 authorized under this section replaces any updated service credit
3 or prior service credit previously authorized for part of the same
4 service.

5 SECTION 9. Section 853.402, Government Code, is amended by
6 adding Subsection (g) to read as follows:

7 (g) The retirement system may recalculate updated service
8 credit for purposes of determining a member's retirement annuity
9 if:

10 (1) the member reestablishes credited service in
11 accordance with Section 853.003 and retires in the same calendar
12 year; and

13 (2) any municipality for which the member performed
14 creditable service adopts an ordinance authorizing updated service
15 credits under Section 853.401, 853.404, or 853.601 with an
16 effective date of January 1 of the same calendar year.

17 SECTION 10. Section 853.601(a), Government Code, is amended
18 to read as follows:

19 (a) The governing body of a participating municipality in
20 ordinances authorizing updated service credits under Section
21 853.401 [~~on or after January 1, 1984,~~] may provide that those
22 members who are eligible for such credits on the basis of service
23 with the granting municipality, who have unforfeited credit for
24 prior service or current service with another participating
25 municipality or municipalities by reason of previous employment,
26 and who are contributing members on the date prescribed by Section
27 853.402(e), shall be credited in the retirement system with updated

1 service credit calculated in the manner prescribed by Sections
2 853.401 and 853.402, except that in determining the base updated
3 service credit of the member under Section 853.402(c)(1), all
4 unforfeited credited service performed by the member by reason of
5 previous employment in other participating municipalities prior to
6 the date prescribed by Section 853.402(e) shall be treated as if
7 performed in the service of the municipality adopting the
8 ordinance, and that amount shall be reduced by an amount equal to
9 the sum of:

10 (1) 2 times the amount credited to the member's
11 individual account on the date prescribed in Section 853.402(e),
12 which any participating municipality has undertaken to match on a 1
13 to 1 ratio; plus

14 (2) 2.5 times the amount credited to the member's
15 individual account, subject to a 1.5 to 1 matching ratio by any
16 participating municipality; plus

17 (3) 3 times the amount credited to the member's
18 individual account, subject to a 2 to 1 matching ratio by any
19 participating municipality; and plus

20 (4) the sum of all updated service credits, prior
21 service credits, special prior service credits, and antecedent
22 service credits allowed to the member by any other participating
23 municipality by which the member was previously employed and to
24 which the member is entitled.

25 SECTION 11. Section 854.006(f), Government Code, is amended
26 to read as follows:

27 (f) If a divorce decree or a qualified domestic relations

1 order, as that term is defined by Section 804.001, so provides, the
2 benefit payable to a retiree who is receiving payments of an annuity
3 for the retiree's life with payments to continue after the retiree's
4 death until the death of another person under Section
5 854.104(c)(1), (2), or (5), 854.305(c)[~~(1), (2), or (5)~~], or
6 854.410(c)[~~(1), (2), or (5)~~] may be increased to the amount that
7 would have been payable if the retiree had selected an annuity
8 payable only during the retiree's lifetime if:

9 (1) the proceeding in which the decree or order is
10 entered terminates the marriage between the retiree and the person
11 who was designated to receive the continued payment after the
12 retiree's death;

13 (2) the decree or order awards the retiree all
14 benefits resulting from the retiree's participation in the
15 retirement system; and

16 (3) the decree or order is signed after December 31,
17 1999.

18 SECTION 12. Section 854.301, Government Code, is amended by
19 adding Subsection (d) to read as follows:

20 (d) A member may not apply for a disability retirement
21 annuity under this subchapter after the date the member's
22 participating municipality begins participation in the
23 occupational disability benefits program under Subchapter E.

24 SECTION 13. Sections 854.408(a) and (b), Government Code,
25 are amended to read as follows:

26 (a) The standard occupational disability retirement annuity
27 payable under this subchapter is the sum of the member's prior

1 service annuity and current service annuity. A prior service
2 annuity is subject to reduction under Section 855.308(f). A
3 standard occupational disability retirement annuity[+]

4 ~~[(1)]~~ is payable throughout the life of the retiree
5 except as otherwise provided by this subchapter[+ and

6 ~~[(2) is reducible as to any month or series of months~~
7 ~~as provided by this section].~~

8 (b) The occupational disability retirement annuity of a
9 disability retiree may not be suspended under this subchapter after
10 the date the disability retiree attains 60 years of age [~~During any~~
11 ~~month in which a retiree who is less than 60 years old receives~~
12 ~~earned income subject to taxation under the Federal Insurance~~
13 ~~Contributions Act or that would be subject to those taxes if the~~
14 ~~employer were not an exempt organization, the standard occupational~~
15 ~~disability retirement annuity may not exceed the greater of the~~
16 ~~following amounts:~~

17 ~~[(1) the amount that is required to be added to the~~
18 ~~retiree's earned income for the month to equal the highest average~~
19 ~~compensation on which the retiree made membership contributions to~~
20 ~~the retirement system during any 12 consecutive months during the~~
21 ~~three calendar years immediately preceding the year in which the~~
22 ~~retiree retired for disability, when the highest average~~
23 ~~compensation is multiplied by the percentage increase, if any, in~~
24 ~~the Consumer Price Index for All Urban Consumers published by the~~
25 ~~Bureau of Labor Statistics of the United States Department of Labor~~
26 ~~from December of the year immediately preceding the effective date~~
27 ~~of the person's retirement to the December that is 13 months before~~

1 ~~a computation is made under this subsection; or~~

2 ~~[(2) the monthly annuity attributable to the retiree's~~
3 ~~accumulated contributions at the time of the person's retirement].~~

4 SECTION 14. Section 854.409, Government Code, is amended to
5 read as follows:

6 Sec. 854.409. MEDICAL EXAMINATION ~~[REPORTS REQUIRED]~~ OF
7 RETIREES. (a) The retirement system may require, by written
8 request, a disability retiree under this subchapter who is younger
9 than 60 years of age to undergo a medical examination and provide
10 current medical and other relevant information reaffirming the
11 status of the retiree as meeting the requirements for certification
12 of occupational disability under Section 854.407(b). The
13 retirement system or medical board may designate a physician to
14 perform the examination. The retiree shall pay the cost of the
15 examination, unless the director, at the director's discretion,
16 waives that requirement and has the retirement system pay the cost
17 of the examination ~~[A disability retiree who is less than 60 years~~
18 ~~old and who accepts employment or during any month receives income~~
19 ~~that is subject to taxation under the Federal Insurance~~
20 ~~Contributions Act shall promptly notify the board of trustees in~~
21 ~~writing if the amount of the earnings, when added to the amount of~~
22 ~~the standard occupational disability retirement benefit, produces~~
23 ~~a sum in excess of the average monthly compensation on which the~~
24 ~~retiree made member contributions during the 12-month period~~
25 ~~preceding the date of the person's retirement].~~

26 (b) ~~[Each retiree who is receiving an occupational~~
27 ~~disability retirement annuity and is less than 60 years old shall~~

1 ~~make annual reports to the board of trustees on such form as the~~
2 ~~board may prescribe, concerning receipt by the retiree of income~~
3 ~~that is subject to taxation under the Federal Insurance~~
4 ~~Contributions Act or that would be subject to those taxes if the~~
5 ~~employer were not an exempt organization, along with any supporting~~
6 ~~information as may be required by the board of trustees.] If a~~
7 disability retiree refuses to submit to a medical examination or
8 fails to provide current medical or other [the] information
9 requested under Subsection (a) [required under this section], the
10 retirement system [director] may suspend payments of the disability
11 annuity as provided by this section [until the retiree provides the
12 required information].

13 (c) If a disability retiree refuses to submit to a medical
14 examination or fails to provide current medical or other
15 information requested under Subsection (a) by the first anniversary
16 of the date the retirement system requested the medical examination
17 or information, the retirement system may suspend payments of the
18 disability annuity until the earlier of the date the retiree:

- 19 (1) attains 60 years of age; or
20 (2) submits to a medical examination and provides the
21 requested information.

22 (d) If a disability retiree submits to a medical examination
23 and provides the requested information before the fourth
24 anniversary of the date the retirement system requested the medical
25 examination or information, the retirement system may pay the
26 suspended payments of the disability annuity in a lump sum.

27 (e) If the medical board finds that a disability retiree

1 under this subchapter has experienced medical improvement to the
2 extent that the disability retiree no longer meets the requirements
3 for certification of occupational disability under Section
4 854.407(b), the medical board shall certify the medical board's
5 findings and submit the findings to the director. If the director
6 concurs in the medical board's findings under this section, the
7 director may adopt the findings, and the retirement system may
8 suspend payments of the disability annuity and take other action as
9 the retirement system, in the retirement system's discretion,
10 considers equitable and appropriate to address the situation, until
11 the disability retiree attains 60 years of age.

12 (f) The suspension of a benefit under this section does not
13 suspend payment of a benefit to an alternate payee under a qualified
14 domestic relations order.

15 SECTION 15. Section 854.410(e), Government Code, is amended
16 to read as follows:

17 (e) To select an optional occupational disability
18 retirement annuity, a member or retiree must make the selection and
19 designate a beneficiary on a form prescribed by and filed with the
20 retirement system [~~board of trustees~~] before the 31st day after the
21 effective date of retirement.

22 SECTION 16. Subchapter E, Chapter 854, Government Code, is
23 amended by adding Section 854.411 to read as follows:

24 Sec. 854.411. RULES FOR OPTIONAL DISABILITY RETIREMENT
25 ANNUITIES. The board of trustees may adopt rules necessary or
26 desirable to implement this subchapter.

27 SECTION 17. Section 855.007, Government Code, is amended by

1 amending Subsections (a), (b), and (c) and adding Subsections (e),
2 (f), (g), (h), (i), (j), and (k) to read as follows:

3 (a) The board of trustees shall hold at least four [~~regular~~]
4 meetings [~~in March, June, September, and December of~~] each year and
5 additional [~~special~~] meetings when called by the director.

6 (b) Before the fifth day preceding the day of a meeting, the
7 director shall give written notice of the [~~a special~~] meeting to
8 each trustee unless notice is waived.

9 (c) Except as otherwise provided by this subtitle, Chapter
10 551, or other law, all [~~All~~] meetings of the board must be open to
11 the public.

12 (e) Notwithstanding Chapter 551 or any other law, the board
13 of trustees may hold an open or closed meeting by telephone
14 conference call, videoconference, or other similar
15 telecommunication method. The board may use a telephone conference
16 call, videoconference, or other similar telecommunication method
17 for purposes of establishing a quorum or voting or for any other
18 meeting purpose in accordance with Subsection (f) and this
19 subsection. This subsection applies without regard to the subject
20 matter discussed or considered by the board at a meeting.

21 (f) A meeting of the board of trustees held by telephone
22 conference call, videoconference, or other similar
23 telecommunication method:

24 (1) is subject to the notice requirements applicable
25 to other board meetings;

26 (2) may not be held unless notice of the meeting
27 specifies the location of the meeting at which at least one trustee

1 of the board will be physically present; and

2 (3) must be open and audible to the public at the
3 location specified in the notice under Subdivision (2) during the
4 open portions of the meeting.

5 (g) Chapter 551 does not require the board of trustees to
6 confer with one or more employees, consultants, or legal counsel of
7 the retirement system or with a third party, including
8 representatives of an issuer of restricted securities or a private
9 investment fund, in an open meeting if the only purpose of the
10 conference is to receive information from or question the
11 employees, consultants, or legal counsel of the retirement system
12 or the third party relating to an investment or a potential
13 investment.

14 (h) The board of trustees or a committee of the board may
15 conduct a closed meeting in accordance with Subchapter E, Chapter
16 551, with the retirement system's internal or external auditors to
17 discuss:

18 (1) governance, risk management or internal control
19 weaknesses, known or suspected compliance violations or fraud,
20 status of regulatory reviews or investigations, or identification
21 of potential fraud risk areas and audits for the annual internal
22 audit plan; or

23 (2) the auditors' ability to perform duties in
24 accordance with the Internal Audit Charter and relevant auditing
25 standards.

26 (i) Notwithstanding Chapter 551 or any other law, the board
27 of trustees may conduct a closed meeting to consider and discuss:

1 (1) evaluations or duties of trustees or board
2 consultants; and

3 (2) self-evaluations of the board as a whole.

4 (j) Notwithstanding any other law, Chapter 551 does not
5 apply to an assembly of the board of trustees or one of the board's
6 committees while attending a summit, conference, convention,
7 workshop, or other event held for educational purposes if the
8 assembly or committee does not deliberate, vote, or take action on a
9 specific matter of public business or public policy over which the
10 board of trustees or a committee of the board has supervision or
11 control. This subsection does not apply to a meeting of the board of
12 trustees scheduled or called under the board's bylaws.

13 (k) The board of trustees may adopt rules necessary or
14 desirable to implement this section.

15 SECTION 18. Section 855.107, Government Code, is amended to
16 read as follows:

17 Sec. 855.107. AUDIT. (a) In this section:

18 (1) "Audit" means an internal or independent external
19 audit authorized or required by this section or initiated or
20 commissioned by the board of trustees or a committee of the board of
21 trustees. The term includes a financial audit, compliance audit,
22 economy and efficiency audit, effectiveness audit, performance
23 audit, security or risk audit, attestation, management-directed
24 engagement, or investigation.

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

1 (A) internal or external communications relating
2 to the audit that are made or received in the course of the audit;

3 (B) drafts of an audit report or portions of
4 those drafts;

5 (C) drafts of audit plans; and

6 (D) records of risk assessments.

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

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

14 (d) Audit working papers prepared, maintained, or assembled
15 by the retirement system or an agent of the retirement system are
16 not a record of the board of trustees for purposes of Section
17 855.112, and are confidential and excepted from the disclosure
18 requirements of Chapter 552.

19 (e) Unless made confidential under other law, an audit
20 report, when received by the board of trustees in its final form, is
21 public information not excepted from the requirements of Section
22 552.021.

23 SECTION 19. Section 855.110(c), Government Code, is amended
24 to read as follows:

25 (c) The board of trustees, after consultation with the
26 actuary, by rule or by funding policy adopted by the board of
27 trustees, may:

1 (1) set open or closed amortization periods not to
2 exceed 30 [~~25~~] years;

3 (2) change the period for amortizing a municipality's
4 unfunded actuarial accrued liabilities from an open period to a
5 closed period or from a closed period to an open period;

6 (3) decrease or increase the amortization period,
7 provided the amortization period may not exceed 30 years; and

8 (4) set different amortization periods for unfunded
9 actuarial accrued liabilities arising from different types of
10 events giving rise to liabilities and ladder the amortization of
11 the liabilities.

12 SECTION 20. Section [855.112](#), Government Code, is amended to
13 read as follows:

14 Sec. 855.112. RECORDS [~~OF BOARD OF TRUSTEES~~]. (a) The
15 retirement system [~~board of trustees~~] shall keep, in convenient
16 form, data necessary for required computations and valuations by
17 the actuary.

18 (b) The board of trustees shall keep a permanent record of
19 all of its proceedings.

20 (c) Records of the board of trustees are open to the public.

21 SECTION 21. Section [855.114](#), Government Code, is amended to
22 read as follows:

23 Sec. 855.114. OBTAINING INFORMATION. (a) In this section,
24 "participant" means a member, former member, retiree, annuitant,
25 beneficiary, or alternate payee of the retirement system.

26 (b) The board of trustees shall obtain from participants
27 [~~members~~] or participating municipalities information necessary

1 for the proper operation of the retirement system.

2 (c) Each participant and participating municipality shall
3 timely provide, in the form and manner specified by the retirement
4 system, information necessary for the proper operation and
5 administration of the retirement system.

6 SECTION 22. Section 855.115, Government Code, is amended by
7 amending Subsections (a), (c), and (d) and adding Subsections
8 (a-1), (b-1), (e), (f), (g), and (h) to read as follows:

9 (a) In this section, "participant" has the meaning assigned
10 by Section 855.114.

11 (a-1) Information contained in records that are in the
12 custody of the retirement system or maintained in the custody of
13 another governmental entity or an administrator or carrier acting
14 in cooperation with or on behalf of the retirement system
15 concerning a participant [an individual member, retiree,
16 annuitant, or beneficiary] is confidential and not subject to
17 public disclosure. Except as otherwise provided by this section,
18 the retirement system is not required to accept or comply with a
19 request for a record or information about a record of a participant,
20 or to seek an opinion from the attorney general because the records
21 of a participant are not public records and are exempt from
22 disclosure and the public information provisions of Chapter 552.
23 Participant information [under Section 552.101, and] may not be
24 disclosed [in a form identifiable with a specific individual]
25 unless:

26 (1) the information is disclosed to:

27 (A) the participant [~~individual~~] or the

1 participant's [~~individual's~~] attorney, guardian, executor,
2 administrator, conservator, or other person who the director
3 determines is acting in the interest of the participant
4 [~~individual~~] or the participant's [~~individual's~~] estate;

5 (B) a spouse or former spouse of a participant
6 [~~the individual~~] after the director determines that the information
7 is relevant to the spouse's or former spouse's interest in member
8 accounts, benefits, or other amounts payable by the retirement
9 system;

10 (C) a governmental official or employee after the
11 director determines that disclosure of the information requested is
12 reasonably necessary to:

13 (i) the performance of the duties of the
14 official or employee; or

15 (ii) perform the purposes of the retirement
16 system; or

17 (D) a person authorized by the participant
18 [~~individual~~] in writing to receive the information; or

19 (2) the information is disclosed pursuant to a
20 subpoena and the director determines that the participant
21 [~~individual~~] will have a reasonable opportunity to contest the
22 subpoena.

23 (b-1) This section does not require the retirement system to
24 compile or disclose a list of participants' names, addresses,
25 social security numbers, or other descriptive or demographic
26 information.

27 (c) The director may designate other employees of the

1 retirement system to make the necessary determinations under
2 Subsection (a-1) [~~(a)~~].

3 (d) A determination and disclosure under Subsection (a-1)
4 [~~(a)~~] may be made without notice to the participant [~~individual~~
5 ~~member, retiree, annuitant, or beneficiary~~].

6 (e) A record released or received by the retirement system
7 under this section may be transmitted electronically, including
8 through the 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 any
13 law or rule relating to the protection of confidential information.

14 (f) The records of a participant remain confidential after
15 release to a person, including a governmental official or employee,
16 as authorized by this section. The records of the participant may
17 become part of a public record of an administrative or judicial
18 proceeding, and the participant waives the confidentiality of the
19 records, including medical records, unless the records are closed
20 to public access by a protective order issued under applicable law.

21 (g) The retirement system may require a participant to
22 provide the participant's social security number as the retirement
23 system considers necessary to ensure the proper administration of
24 all services, benefits, plans, and programs under the retirement
25 system's administration or as otherwise required by state or
26 federal law.

27 (h) The retirement system has sole discretion in

1 determining if a record is subject to this section. For purposes of
2 this section, a record includes any record of the retirement system
3 containing information about a participant, living or deceased.

4 SECTION 23. Section 855.116, Government Code, is amended to
5 read as follows:

6 Sec. 855.116. ELECTRONIC INFORMATION [~~FILING OF CERTAIN~~
7 ~~DOCUMENTS~~]. (a) In this section:

8 (1) "Electronic [~~,"electronic]~~ filing" means the
9 filing of data by the communication of information by facsimile or
10 in the form of digital electronic signals transformed by computer
11 and stored on microfilm, magnetic tape, magnetic or solid state
12 ~~[optical]~~ disk, or any other electronic storage or other medium.

13 (2) "Electronic record" means any information that is
14 recorded in a form for computer processing.

15 (b) The board of trustees may adopt rules and procedures
16 relating to the electronic filing of documents with the retirement
17 system and the delivery of information electronically by the
18 retirement system. A document that is electronically filed in
19 accordance with those rules and procedures is considered to have
20 been properly filed with the retirement system.

21 (c) The retirement system may provide confidential
22 information electronically to participating municipalities,
23 members, retirees, beneficiaries, annuitants, alternate payees,
24 and other persons authorized to receive the information and may
25 receive information electronically from the individuals or
26 entities, as applicable, including by use of an electronic
27 signature or certification in a form acceptable to the retirement

1 system. An unintentional disclosure to, or unauthorized access by,
2 a third party related to the transmission or receipt of information
3 under this section is not a violation by the retirement system of
4 any law, including a rule relating to the protection of
5 confidential information.

6 (d) Subject to Subsection (f), the retirement system may
7 provide to a member, retiree, or annuitant any information that is
8 required to be provided, distributed, or furnished under Section
9 802.106(a), (b), (d), or (e) by:

10 (1) sending the information to an e-mail address or
11 other electronic address furnished to the retirement system by the
12 member, retiree, or annuitant; or

13 (2) directing the member, retiree, or annuitant
14 through a written notice, e-mail, or other electronic notice to an
15 Internet website address to access the information.

16 (e) Subject to Subsection (f), the retirement system may
17 provide to a member, retiree, or annuitant the information that is
18 required to be provided under Section 802.106(c) by directing the
19 member, retiree, or annuitant through a written notice, e-mail, or
20 other electronic notice to an Internet website address to access
21 the information.

22 (f) Electronic notice sent under this section by e-mail or
23 other electronic means may only be sent to an e-mail address or
24 other electronic address furnished to the retirement system by the
25 member, retiree, or annuitant.

26 (g) The retirement system may:

27 (1) photograph, microphotograph, film, or make an

1 electronic record of any record in the retirement system's
2 possession; or

3 (2) preserve the record through electronic document
4 imaging.

5 (h) If a record is reproduced under Subsection (g), the
6 retirement system may destroy or dispose of the original record if
7 the system first:

8 (1) places the reproduction or electronic record in a
9 file that is conveniently accessible to retirement system
10 personnel; and

11 (2) provides for the preservation, examination, and
12 use of the reproduction or stored electronic record.

13 (i) A photograph, microphotograph, film, electronic record,
14 or electronic document image of a record received by the retirement
15 system or reproduced under Subsection (g) is equivalent to the
16 original record for all purposes, including introduction as
17 evidence in all courts and administrative agency proceedings. A
18 certified or authenticated copy of the photograph,
19 microphotograph, film, electronic record, or electronic document
20 image is admissible as evidence to the same extent as the original
21 record.

22 (j) The director or an authorized representative may
23 certify the authenticity of a record reproduced under this section
24 and may charge a fee for the certified copy as provided by law.

25 (k) Certified records shall be furnished to any person who
26 is authorized by law to receive them.

27 SECTION 24. The heading to Section 855.202, Government

1 Code, is amended to read as follows:

2 Sec. 855.202. LEGAL REPRESENTATION [~~ADVISER~~].

3 SECTION 25. Section 855.202, Government Code, is amended by
4 amending Subsection (b) and adding Subsection (c) to read as
5 follows:

6 (b) The attorney shall act as the legal adviser to the board
7 of trustees [~~and shall represent the system in all litigation~~].

8 (c) The board of trustees, the director, or the director's
9 designee may employ or obtain the services of other attorneys or
10 outside legal counsel to represent the retirement system in
11 litigation or advise the retirement system on fiduciary or legal
12 matters.

13 SECTION 26. Section 855.301, Government Code, is amended by
14 amending Subsection (a) and adding Subsection (d) to read as
15 follows:

16 (a) The board of trustees shall invest and reinvest the
17 assets of the retirement system without distinction as to their
18 source in accordance with Section 67, Article XVI, Texas
19 Constitution. For purposes of the investment authority of the
20 board of trustees under Section 67, Article XVI, Texas
21 Constitution, "security" or "securities" means any investment
22 instrument within the meaning of the term as defined by Section 4,
23 The Securities Act (Article 581-4, Vernon's Texas Civil Statutes),
24 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10). An
25 interest in a limited partnership or investment contract is
26 considered a security without regard to the number of investors or
27 the control, access to information, or rights granted to or

1 retained by the retirement system. Any instrument or contract
2 intended to manage transaction, currency exchange, or interest rate
3 risk in purchasing, selling, or holding securities, or that derives
4 all or substantially all of its value from the value or performance
5 of one or more securities, including an index or group of
6 securities, is considered to be a security.

7 (d) The board of trustees may:

8 (1) delegate discretionary investment authority to
9 and contract with external investment managers to invest and manage
10 the assets held in trust by the retirement system; and

11 (2) contract with external investment advisors and
12 consultants to assist and advise the board and the staff of the
13 retirement system.

14 SECTION 27. Section 855.407, Government Code, is amended by
15 amending Subsections (f) and (h) and adding Subsection (i) to read
16 as follows:

17 (f) The governing body of a municipality that is determined
18 by the actuary to be unable to finance all obligations charged
19 against its account in the benefit accumulation fund within the
20 municipality's current amortization period [~~25 years after its most~~
21 ~~recent actuarial valuation date~~] may elect to have the municipality
22 contribute to its account in the benefit accumulation fund at a rate
23 that does not exceed in any year the sum of two percent and the
24 maximum contribution rate specified by Subsection (a) and by
25 Section 855.501, if applicable, and that the actuary annually may
26 determine as necessary to finance the existing levels of benefits
27 before the expiration of the municipality's current amortization

1 period [~~25 years after the most recent actuarial valuation date~~].

2 (h) Subject to Subsection (i), if [~~If~~] the board of trustees
3 adopts any actuarial changes, including changes [~~change~~] in
4 actuarial assumptions or in actuarial method, that would result in
5 any municipality having an increase in its combined contribution
6 rate of more than one-half of one percent of the total compensation
7 paid to its employees based on its current amortization period, the
8 board may, after consultation with the actuary, take any or all of
9 the following actions [~~and if its governing body adopts a~~
10 ~~resolution requesting a new amortization period, the municipality~~
11 ~~will be assigned a new amortization period equal to the lesser of~~]:

12 (1) phase in the increase in the contribution rate for
13 the municipality over a reasonable period of time;

14 (2) increase the period for amortizing the
15 municipality's unfunded actuarial accrued liabilities for a period
16 that does not exceed 30 years; or

17 (3) allow the municipality to request in writing an
18 increase in the municipality's amortization period, provided that
19 the new amortization period the municipality may be assigned equals
20 the lesser of:

21 (A) the number of years required to limit the
22 increase in the combined rate to one-half of one percent of the
23 total compensation paid to its employees; or

24 (B) [~~2~~] the maximum number of years, not to
25 exceed 30 [~~40~~] years, specified by the board of trustees.

26 (i) A municipality may decline to phase in the increase in
27 the municipality's contribution rate or increase the municipality's

1 amortization period under Subsection (h).

2 SECTION 28. Sections 852.005(b), 853.105(b), 854.408(c)
3 and (d), and 854.410(f), Government Code, are repealed.

4 SECTION 29. The changes in law made to Chapter 854,
5 Government Code, as amended by this Act, apply to a retiree
6 regardless of whether the person retired before, on, or after the
7 effective date of this Act.

8 SECTION 30. This Act takes effect January 1, 2020.