

By: Flynn

H.B. No. 2821

A BILL TO BE ENTITLED

AN ACT

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

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

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

(8) "Employee," unless the context requires otherwise, means a person, including a person serving a period of probationary employment, who receives compensation from and is certified by a municipality as being regularly engaged in the performance of duties of:

(A) an appointive office or position that normally requires services from the person for not less than 1,000 hours a year; or

(B) an elective office that normally requires services from the person for not less than 1,000 hours a year, in a municipality that began participating in the retirement system after December 31, 1981, or that has adopted a membership requirement under Section 852.107.

(8-a) "Excluded prior service credit" means prior service credit described by Section 853.0015.

(15) "Amortization period" means, as to a particular municipality, the expiration of the maximum number of years, not to

1 exceed 30 years, [~~time ending with the later of:~~

2 [~~(A) the expiration of 25 years after the~~
3 ~~effective date of the municipality's participation in the~~
4 ~~retirement system;~~

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

7 [~~(C) the period determined under Section~~
8 ~~855.407(h)~~].

9 SECTION 2. Section 851.004, Government Code, is amended to
10 read as follows:

11 Sec. 851.004. POWERS, [AND] PRIVILEGES, AND IMMUNITIES.

12 (a) The retirement system has the powers, privileges, and
13 immunities of a corporation, as well as the powers, privileges, and
14 immunities conferred by this subtitle.

15 (b) The board of trustees, director, members of an advisory
16 committee or medical board appointed by the board of trustees, and
17 employees of the retirement system are not liable for any action
18 taken or omission made or suffered by them in good faith in the
19 performance of any duty in connection with any program, system, or
20 benefit administered by the retirement system.

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

23 Sec. 853.003. BUY BACK OF CREDITED SERVICE PREVIOUSLY
24 CANCELED.

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

27 Sec. 853.0015. EXCLUDED PRIOR SERVICE CREDIT. If a member

1 is only entitled to receive excluded prior service credit under
2 this chapter, the prior service credit certified to the member:

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

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

7 Sec. 853.004. RULES FOR CREDITABLE SERVICE. The board of
8 trustees shall adopt rules necessary to implement this chapter.

9 SECTION 5. Section 853.105, Government Code, is amended by
10 amending Subsections (a), (c), and (d) and adding Subsection (d-1)
11 to read as follows:

12 (a) After receiving a certification of prior service and
13 average prior service compensation under Section 853.104, the
14 retirement system [board of trustees] shall determine the member's
15 prior service credit.

16 (c) The [~~For an employee of a municipality having an~~
17 ~~effective date of participation in the retirement system after~~
18 ~~December 31, 1975, the]~~ prior service credit is an amount computed
19 as a percentage determined as provided by Subsection (d) or, if
20 applicable, Subsection (d-1), times a base credit equal to the
21 accumulation at three percent interest of a series of monthly
22 amounts for the number of months of approved prior service, times
23 the sum of:

24 (1) the rate of contributions required of employees of
25 the municipality for current service; plus

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

1 (d) The governing body of a municipality [~~having an~~
2 ~~effective date of retirement system participation after December~~
3 ~~31, 1975,~~] shall determine in the ordinance providing for
4 participation the percentage to be applied against the base credit
5 in computing a prior service credit under Subsection (c). Except as
6 provided by Subsection (d-1), the [~~The~~] percentage adopted may be
7 any multiple of 10 percent that does not exceed 100 percent of the
8 base credit, with 10 percent being the minimum percentage a
9 municipality may adopt. A governing body may not adopt a percentage
10 under this subsection until the actuary first determines, and the
11 retirement system [~~board of trustees~~] concurs in the determination,
12 that the municipality is able to fund, before the 30th [~~25th~~]
13 anniversary of the effective date of its participation in the
14 retirement system, all prior service obligations that the
15 municipality proposes to assume under this section.

16 (d-1) The governing body of a municipality shall adopt, by
17 ordinance, a zero percent prior service credit under Subsection (c)
18 entitling the member to excluded prior service credit if, before
19 joining the retirement system, the municipality provided
20 retirement benefits to its employees that were funded partly or
21 wholly by the municipality.

22 SECTION 6. Section 853.106, Government Code, is amended to
23 read as follows:

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

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

4 (b) As long as a person remains a member, the person's prior
5 service certificate is, for purposes of retirement, conclusive
6 evidence of the information it contains, except that a member or
7 participating municipality~~[, before the first anniversary of its~~
8 ~~issuance or modification,~~] may request that the retirement system
9 correct an error in the prior service ~~[board of trustees to modify~~
10 ~~the]~~ certificate in accordance with Section 852.110.

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

14 (a-1) This subsection applies to a municipality that is
15 required to adopt a zero percent prior service credit under Section
16 853.105(d-1). If the governing body of a municipality subject to
17 this subsection authorizes the granting of prior service credit to
18 an employee under Subsection (a), the employee is only entitled to
19 receive excluded prior service credit.

20 (a-2) This subsection applies to a municipality that,
21 before having a department of the municipality begin participating
22 in the retirement system, provided other retirement benefits to its
23 employees in that department funded partly or wholly by the
24 municipality. If, on or after January 1, 2020, the governing body
25 of a municipality subject to this subsection authorizes the
26 granting of prior service credit to an employee under Subsection
27 (a), the employee is only entitled to receive excluded prior

1 service credit.

2 (a-3) This subsection applies to a municipality that
3 elected to discontinue the participation in the retirement system
4 of persons employed or reemployed after the date of an election to
5 discontinue under Section 852.006(a), provided other retirement
6 benefits to those employees funded partly or wholly by the
7 municipality, and subsequently elects, by ordinance, to have those
8 employees resume participating in the retirement system. If, on or
9 after January 1, 2020, the governing body of a municipality subject
10 to this subsection authorizes prior service credit under Subsection
11 (a) to an employee described by this subsection, the employee is
12 only entitled to excluded prior service credit.

13 (c) As soon as practicable after a member has filed a
14 statement of prior service under this section, the municipality
15 shall verify the prior service claimed and certify to the
16 retirement system [~~board of trustees~~] the creditable prior service
17 approved and the average monthly compensation paid to the member
18 during the period of the service.

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

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

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

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

1 (a) Except as provided by Subsection (b) and Sections
2 853.105 and 853.303, the governing body of a participating
3 municipality by ordinance may authorize the crediting in the
4 retirement system of updated service credits for service performed
5 for the municipality by members who are contributing employees of
6 the municipality on the date prescribed by Section 853.402(e). An
7 updated service credit authorized under this section replaces any
8 updated service credit or prior service credit previously
9 authorized for part of the same service.

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

12 (g) The retirement system may recalculate updated service
13 credit for purposes of determining a member's retirement annuity
14 if:

15 (1) the member reestablishes credited service in
16 accordance with Section 853.003 and retires in the same calendar
17 year; and

18 (2) any municipality for which the member performed
19 creditable service adopts an ordinance authorizing updated service
20 credits under Section 853.401 or 853.404 with an effective date of
21 January 1 of the same calendar year.

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

24 (a) The governing body of a participating municipality in
25 ordinances authorizing updated service credits under Section
26 853.401 [~~on or after January 1, 1984,~~] may provide that those
27 members who are eligible for such credits on the basis of service

1 with the granting municipality, who have unforfeited credit for
2 prior service or current service with another participating
3 municipality or municipalities by reason of previous employment,
4 and who are contributing members on the date prescribed by Section
5 853.402(e), shall be credited in the retirement system with updated
6 service credit calculated in the manner prescribed by Sections
7 853.401 and 853.402, except that in determining the base updated
8 service credit of the member under Section 853.402(c)(1), all
9 unforfeited credited service performed by the member by reason of
10 previous employment in other participating municipalities prior to
11 the date prescribed by Section 853.402(e) shall be treated as if
12 performed in the service of the municipality adopting the
13 ordinance, and that amount shall be reduced by an amount equal to
14 the sum of:

15 (1) 2 times the amount credited to the member's
16 individual account on the date prescribed in Section 853.402(e),
17 which any participating municipality has undertaken to match on a 1
18 to 1 ratio; plus

19 (2) 2.5 times the amount credited to the member's
20 individual account, subject to a 1.5 to 1 matching ratio by any
21 participating municipality; plus

22 (3) 3 times the amount credited to the member's
23 individual account, subject to a 2 to 1 matching ratio by any
24 participating municipality; and plus

25 (4) the sum of all updated service credits, prior
26 service credits, special prior service credits, and antecedent
27 service credits allowed to the member by any other participating

1 municipality by which the member was previously employed and to
2 which the member is entitled.

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

5 (f) If a divorce decree or a qualified domestic relations
6 order, as that term is defined by Section 804.001, so provides, the
7 benefit payable to a retiree who is receiving payments of an annuity
8 for the retiree's life with payments to continue after the retiree's
9 death until the death of another person under Section
10 854.104(c)(1), (2), or (5), 854.305(c)[~~(1), (2), or (5)~~], or
11 854.410(c)[~~(1), (2), or (5)~~] may be increased to the amount that
12 would have been payable if the retiree had selected an annuity
13 payable only during the retiree's lifetime if:

14 (1) the proceeding in which the decree or order is
15 entered terminates the marriage between the retiree and the person
16 who was designated to receive the continued payment after the
17 retiree's death;

18 (2) the decree or order awards the retiree all
19 benefits resulting from the retiree's participation in the
20 retirement system; and

21 (3) the decree or order is signed after December 31,
22 1999.

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

25 (d) A member may not apply for a disability retirement
26 annuity under this subchapter after the date the member's
27 participating municipality begins participation in the

1 occupational disability benefits program under Subchapter E.

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

4 (a) The standard occupational disability retirement annuity
5 payable under this subchapter is the sum of the member's prior
6 service annuity and current service annuity. A prior service
7 annuity is subject to reduction under Section 855.308(f). A
8 standard occupational disability retirement annuity[+]

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

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

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

22 [~~(1) the amount that is required to be added to the~~
23 ~~retiree's earned income for the month to equal the highest average~~
24 ~~compensation on which the retiree made membership contributions to~~
25 ~~the retirement system during any 12 consecutive months during the~~
26 ~~three calendar years immediately preceding the year in which the~~
27 ~~retiree retired for disability, when the highest average~~

1 ~~compensation is multiplied by the percentage increase, if any, in~~
2 ~~the Consumer Price Index for All Urban Consumers published by the~~
3 ~~Bureau of Labor Statistics of the United States Department of Labor~~
4 ~~from December of the year immediately preceding the effective date~~
5 ~~of the person's retirement to the December that is 13 months before~~
6 ~~a computation is made under this subsection; or~~

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

9 SECTION 14. Section 854.409, Government Code, is amended to
10 read as follows:

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

1 ~~a sum in excess of the average monthly compensation on which the~~
2 ~~retiree made member contributions during the 12-month period~~
3 ~~preceding the date of the person's retirement].~~

4 (b) ~~[Each retiree who is receiving an occupational~~
5 ~~disability retirement annuity and is less than 60 years old shall~~
6 ~~make annual reports to the board of trustees on such form as the~~
7 ~~board may prescribe, concerning receipt by the retiree of income~~
8 ~~that is subject to taxation under the Federal Insurance~~
9 ~~Contributions Act or that would be subject to those taxes if the~~
10 ~~employer were not an exempt organization, along with any supporting~~
11 ~~information as may be required by the board of trustees.]~~ If a
12 retiree refuses to submit to a medical examination or fails to
13 provide current medical or other [the] information requested under
14 Subsection (a) [required under this section], the retirement system
15 [director] may suspend payments of the annuity as provided by this
16 section [until the retiree provides the required information].

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

23 (1) attains 60 years of age; or

24 (2) submits to a medical examination and provides the
25 requested information.

26 (d) If a retiree submits to a medical examination and
27 provides the requested information before the fourth anniversary of

1 the date the retirement system requested the medical examination or
2 information, the retirement system may pay the suspended payments
3 of the annuity in a lump sum.

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

16 (f) The retirement system may not suspend a benefit under
17 this section payable to an alternate payee under a qualified
18 domestic relations order.

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

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

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

1 Sec. 854.411. RULES FOR OPTIONAL DISABILITY RETIREMENT
2 ANNUITIES. The board of trustees may adopt rules necessary to
3 implement this subchapter.

4 SECTION 17. Section [855.007](#), Government Code, is amended by
5 amending Subsections (a), (b), and (c) and adding Subsections (e),
6 (f), (g), (h), (i), (j), and (k) to read as follows:

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

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

13 (c) Except as otherwise provided by this subtitle, Chapter
14 [551](#), or other law, all ~~[All]~~ meetings of the board must be open to
15 the public.

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

25 (f) A meeting of the board of trustees held by telephone
26 conference call, videoconference, or other similar
27 telecommunication method:

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

3 (2) may not be held unless notice of the meeting
4 specifies the location of the meeting at which at least one trustee
5 of the board will be physically present; and

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

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

18 (h) The board of trustees or a committee of the board may
19 conduct a closed meeting in accordance with Subchapter E, Chapter
20 551, with the retirement system's internal or external auditors to
21 discuss:

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

27 (2) the auditors' ability to perform duties in

1 accordance with the Internal Audit Charter and relevant auditing
2 standards.

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

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

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

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

17 (k) The board of trustees may adopt rules necessary to
18 implement this section.

19 SECTION 18. Section 855.107, Government Code, is amended to
20 read as follows:

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

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

1 engagement, or investigation.

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

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

7 (B) drafts of an audit report or portions of
8 those drafts;

9 (C) drafts of audit plans; and

10 (D) records of risk assessments.

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

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

18 (d) Audit working papers prepared, maintained, or assembled
19 by the retirement system or an agent of the retirement system are
20 not a record of the board of trustees for purposes of Section
21 855.112, and are confidential and excepted from the disclosure
22 requirements of Chapter 552.

23 (e) Unless made confidential under other law, an audit
24 report, when received by the board of trustees in its final form, is
25 public information not excepted from the requirements of Section
26 552.021.

27 SECTION 19. Section 855.110(c), Government Code, is amended

1 to read as follows:

2 (c) The board of trustees, after consultation with the
3 actuary, by rule or by funding policy adopted by the board of
4 trustees, may:

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

7 (2) change the period for amortizing a municipality's
8 unfunded actuarial accrued liabilities from an open period to a
9 closed period or from a closed period to an open period;

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

12 (4) set different amortization periods for unfunded
13 actuarial accrued liabilities arising from different types of
14 events giving rise to liabilities and ladder the amortization of
15 the liabilities.

16 SECTION 20. Section 855.112, Government Code, is amended to
17 read as follows:

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

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

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

25 SECTION 21. Section 855.114, Government Code, is amended to
26 read as follows:

27 Sec. 855.114. OBTAINING INFORMATION. (a) In this section,

1 "participant" means a member, former member, retiree, annuitant,
2 beneficiary, or alternate payee of the retirement system.

3 (b) The board of trustees shall obtain from participants
4 ~~[members]~~ or participating municipalities information necessary
5 for the proper operation of the retirement system.

6 (c) Each participant and participating municipality shall
7 timely provide, in the form and manner specified by the retirement
8 system, information necessary for the proper operation and
9 administration of the retirement system.

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

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

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

1 disclosed [~~in a form identifiable with a specific individual~~]
2 unless:

3 (1) the information is disclosed to:

4 (A) the participant [~~individual~~] or the
5 participant's [~~individual's~~] attorney, guardian, executor,
6 administrator, conservator, or other person who the director
7 determines is acting in the interest of the participant
8 [~~individual~~] or the participant's [~~individual's~~] estate;

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

14 (C) a governmental official or employee after the
15 director determines that disclosure of the information requested is
16 reasonably necessary to:

17 (i) the performance of the duties of the
18 official or employee; or

19 (ii) perform the purposes of the retirement
20 system; or

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

23 (2) the information is disclosed pursuant to a
24 subpoena and the director determines that the participant
25 [~~individual~~] will have a reasonable opportunity to contest the
26 subpoena.

27 (b-1) This section does not require the retirement system to

1 compile or disclose a list of participants' names, addresses,
2 social security numbers, or other descriptive or demographic
3 information.

4 (c) The director may designate other employees of the
5 retirement system to make the necessary determinations under
6 Subsection (a-1) [~~(a)~~].

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

10 (e) A record released or received by the retirement system
11 under this section may be transmitted electronically, including
12 through the use of an electronic signature or certification in a
13 form acceptable to the retirement system. An unintentional
14 disclosure to, or unauthorized access by, a third party related to
15 the transmission or receipt of information under this section is
16 not a violation by the retirement system of any law, including any
17 law or rule relating to the protection of confidential information.

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

25 (g) The retirement system may require a participant to
26 provide the participant's social security number as the retirement
27 system considers necessary to ensure the proper administration of

1 all services, benefits, plans, and programs under the retirement
2 system's administration or as otherwise required by state or
3 federal law.

4 (h) The retirement system has sole discretion in
5 determining if a record is subject to this section. For purposes of
6 this section, a record includes any record of the retirement system
7 containing information about a participant, living or deceased.

8 SECTION 23. Section 855.116, Government Code, is amended to
9 read as follows:

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

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

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

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

25 (c) The retirement system may provide confidential
26 information electronically to participating municipalities,
27 members, retirees, beneficiaries, annuitants, alternate payees,

1 and other persons authorized to receive the information and may
2 receive information electronically from the individuals or
3 entities, as applicable, including by use of an electronic
4 signature or certification in a form acceptable to the retirement
5 system. An unintentional disclosure to, or unauthorized access by,
6 a third party related to the transmission or receipt of information
7 under this section is not a violation by the retirement system of
8 any law, including a rule relating to the protection of
9 confidential information.

10 (d) Subject to Subsection (f), the retirement system may
11 provide to a member, retiree, or annuitant any information that is
12 required to be provided, distributed, or furnished under Section
13 802.106(a), (b), (d), or (e) by:

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

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

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

26 (f) Electronic notice sent under this section by e-mail or
27 other means may only be sent to an e-mail address or other

1 electronic address furnished to the retirement system by the
2 member, retiree, or annuitant.

3 (g) The retirement system may:

4 (1) photograph, microphotograph, film, or make an
5 electronic record of any record in the retirement system's
6 possession; or

7 (2) preserve the record through electronic document
8 imaging.

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

12 (1) places the reproduction or electronic record in a
13 file that is conveniently accessible to retirement system
14 personnel; and

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

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

26 (j) The director or an authorized representative may
27 certify the authenticity of a record reproduced under this section

1 and may charge a fee for the certified copy as provided by law.

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

4 SECTION 24. The heading to Section 855.202, Government
5 Code, is amended to read as follows:

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

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

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

12 (c) Subject to Section 402.0212, the board of trustees, the
13 director, or the director's designee may employ or obtain the
14 services of other attorneys or outside legal counsel to represent
15 the retirement system in litigation or advise the retirement system
16 on fiduciary or legal matters.

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

20 (a) The board of trustees shall invest and reinvest the
21 assets of the retirement system without distinction as to their
22 source in accordance with Section 67, Article XVI, Texas
23 Constitution. For purposes of the investment authority of the
24 board of trustees under Section 67, Article XVI, Texas
25 Constitution, "security" or "securities" means any investment
26 instrument within the meaning of the term as defined by Section 4,
27 The Securities Act (Article 581-4, Vernon's Texas Civil Statutes),

1 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10). An
2 interest in a limited partnership or investment contract is
3 considered a security without regard to the number of investors or
4 the control, access to information, or rights granted to or
5 retained by the retirement system. Any instrument or contract
6 intended to manage transaction, currency exchange, or interest rate
7 risk in purchasing, selling, or holding securities, or that derives
8 all or substantially all of its value from the value or performance
9 of one or more securities, including an index or group of
10 securities, is considered to be a security.

11 (d) The board of trustees may:

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

15 (2) contract with external investment advisors and
16 consultants to assist and advise the board and the staff of the
17 retirement system.

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

21 (f) The governing body of a municipality that is determined
22 by the actuary to be unable to finance all obligations charged
23 against its account in the benefit accumulation fund within the
24 municipality's current amortization period [~~25 years after its most~~
25 ~~recent actuarial valuation date~~] may elect to have the municipality
26 contribute to its account in the benefit accumulation fund at a rate
27 that does not exceed in any year the sum of two percent and the

1 maximum contribution rate specified by Subsection (a) and by
2 Section 855.501, if applicable, and that the actuary annually may
3 determine as necessary to finance the existing levels of benefits
4 before the expiration of the municipality's current amortization
5 period [~~25 years after the most recent actuarial valuation date~~].

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

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

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

21 (3) allow the municipality to request in writing an
22 increase in the municipality's amortization period, provided that
23 the new amortization period the municipality may be assigned equals
24 the lesser of:

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

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

3 (i) A municipality may decline to phase in the increase in
4 the municipality's contribution rate or increase the municipality's
5 amortization period under Subsection (h).

6 SECTION 28. Sections [853.105\(b\)](#), [854.408\(c\)](#) and (d), and
7 [854.410\(f\)](#), Government Code, are repealed.

8 SECTION 29. The changes in law made to Chapter [854](#),
9 Government Code, as amended by this Act, apply to a retiree
10 regardless of whether the person retired before, on, or after the
11 effective date of this Act.

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